

No. 6168

IN THE

*Vol
1681*

United States

Circuit Court of Appeals

For the Ninth Circuit

R. E. WENIGER AND CHARLES BLOOM,

Appellants,

vs.

UNITED STATES OF AMERICA

Appellee.

Transcript of the Record

VOLUME I

On Appeal from the District Court of the United States
for the District of Idaho, Northern Division

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Appellants,

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Appellee.

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VOLUME I

On Appeal from the District Court of the United States
for the District of Idaho, Northern Division

NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD

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IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE DISTRICT OF IDAHO, NORTHERN DIVISION

No. 3035

INDICTMENT

Charge: Vio: Sec. 37, Penal Code

UNITED STATES OF AMERICA,

v.

R. E. WENIGER, indicted as R. E. WINEGAR, CHARLES BLOOM, JOSEPH FLORIN, F. O. WELCH, JOSEPH SPECK, JOHN MALLOY, NICK TASULIN, JOHN THOMPSON, LOUIS IRIKLA, JAMES NORMILE, WILLIAM E. COUGHLIN, H. R. WILCOX, CHARLES FOND, HERBERT ANDERSON, CHARLES ANDERSON, JOHN RANTELLA, FRANK HAHN, WAINO PIKKERAINEN, WILLIAM HEADLUND, CHARLES HARTLEY, LEAURO ARO, GUS ARO, whose true name is GUST ARO, WALTER JOHNSON, HENRY KOHKONEN, MIKE KENNEDY, ROY APPLETON, MILFORD GARDNER, indicted as CURLEY GARDNER, JOHN JASKARA, BERTHA STROM, BABE KELLY, AGNES WEST, indicted as AGGIE WEST, JIMMIE RYAN, MONA McDONALD, ANNA TORNBERG, REGINA DALO, HERMAN ARBLISS, whose true name is HERMAN ARBELIUS, ELMER OLSON, AR-

THUR J. HARWOOD, JOHN WHEATLEY, CLARENCE McMURRAY, CHARLES RISTA, HENRY FOSS, and GEORGE HUSTON, and HARTFORD MORPHY, whose true name is HARCOURT MORPHY. Defendants.

UNITED STATES OF AMERICA, }
DISTRICT OF IDAHO } ss.

The Grand Jurors of the United States of America, within and for the District of Idaho, sitting at Moscow, Idaho, in the Central Division thereof, being duly selected, empaneled, sworn and charged upon their oath do present:

That R. E. Winegar, (whose first and true name is to the grand jurors unknown) Charles Bloom, Joseph Florin, F. O. Welch, (whose first and true name is to the grand jurors unknown) Hartford Morphy, Joseph Speck, John Malloy, Nick Tasulin (whose first and true name is to the grand jurors unknown), John Thompson, Louis Trikla, James Normile, William E. Coughlin, H. R. Wilcox (whose first and true name is to the grand jurors unknown) Charles Fond, Herbert Anderson, Charles Anderson, John Rantella, Frank Hahn, Waino Pikkerainen, William Headlund, Charles Hartley, Leauro Aro, Gus Aro (whose first and true name is to the grand jurors unknown) Walter Johnson, Henry Kohkonen, Mike Kennedy (whose first and true name is to the grand jurors unknown) Roy Appleton, Curley Gardner (whoses first and true name is to the

grand jurors unknown), John Jaskara, Bertha Strom, Babe Kelly (whose first and true name is to the grand jurors unknown) Aggie West (whose first and true name is to the grand jurors unknown), Jimmie Ryan (whose first and true name is to the grand jurors unknown), Mona McDonald, Anna Tornberg, Regina Dalo, Herman Arbliss, Elmer Olson, Arthur J. Harwood, John Wheatley, Clarence McMurray, Charles Ristau, Henry Foss and George Huston, (hereinafter referred to as the defendants) in the Village of Mullan, County of Shoshone, State and District of Idaho, Northern Division and within the jurisdiction of this court, on or about the first day of February, A. D., 1924, and thereafter continuously from that date to and including the date of this presentment, did, in the said Village of Mullan, County, State and District aforesaid, wilfully, corruptly, unlawfully, knowingly and feloniously conspire and agree together and with each other other to commit certain offences against the United States of America, and the laws thereof, to-wit, to possess, to transport, to sell and to manufacture intoxicating liquors containing more than one-half of one per cent of alcohol by volume, and fit for beverage purposes, to-wit, wine, beer and whiskey, in violation of Section 3, Section 25, and Section 26 of Title II of the Act of Congress of October 28th, 1919, commonly known as the National Prohibition Act, in the said Village of Mullan, County, State and District aforesaid, and to maintain in said Village of

Mullan, County, State and District aforesaid, a large number of common nuisances (the exact number of which is to the grand jurors unknown), to-wit, rooms, houses, buildings, structures and places where intoxicating liquors containing more than one-half of one per cent of alcohol by volume, and fit for beverage purposes, to-wit, beer, wine and whiskey, were to be manufactured, sold, kept for sale, and bartered for beverage purposes, in violation of Section 21, of Title II, of the aforesaid Act of Congress, known as the National Prohibition Act.

And the Grand Jurors aforesaid, upon their oath as aforesaid, do further say, that at the hereinafter stated times and places, in furtherance and pursuance of, and to carry out the unlawful purpose, and to effect the object of said unlawful conspiracy aforesaid, the hereinbefore named defendants did the following overt acts, to-wit:

1. That on or about the fourth day of February, A. D., 1924, in the Village of Mullan, County of Shoshone, State and District of Idaho, Elmer Olson and Arthur J. Harwood, then and there being trustees of the said Village of Mullan, as such trustees, voted for the passage of Ordinance Number 105, of said Village of Mullan, Idaho.

2. That on or about the fourth day of February, A. D., 1924, in the Village of Mullan, County of Shoshone, State and District of Idaho, one J. E. Gyde, being then and there an attorney at law, as such attorney for the

said village of Mullan, in conference advised Elmer Olson and Arthur J. Harwood, that they could not legally permit persons to deal in intoxicating liquors.

3. That on or about the tenth day of November, A. D., 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Arthur J. Harwood, John Wheatley, Charles Ristau, Henry Foss and George Huston, being then and there trustees of the said Village of Mullan, as such trustees, voted to appoint one F. O. Welch, a police officer of the said Village of Mullan, Idaho.

4. That on or about the fifth day of November, A. D., 1925, in the Village of Mullan, County of Shoshone, State and District of Idaho, Arthur J. Harwood, Elmer Olson and John Wheatley being then and there trustees of the Village of Mullan, as such trustees, voted to appoint one Joseph Florin a police officer of said Village of Mullan, Idaho.

5. That on or about the twenty-fifth day of November, A. D., 1928, in the village of Mullan, County of Shoshone, State and District of Idaho, Charles Bloom received from Anthony McGill, thirty dollars.

6. That on or about the twenty-fifth day of November, A. D., 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Charles Bloom warned Anthony McGill that the Federal prohibition agents were coming to raid the Mullan Inn.

7. That on or about the twentieth day of October, A.

D., 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Charles Bloom drank whiskey in a place known as the Mullan Inn.

8. That on or about the fifth day of July, A. D., 1929, Arthur J. Harwood, John Wheatley, Charles Ristau, Henry Foss and F. O. Welch, in the Village of Mullan, County of Shoshone, State and District of Idaho, discontinued the collection of money from persons in the said Village of Mullan, Idaho, who were violating the National Prohibition Act.

9. That on or about the fifth day of July, A. D. 1929, Arthur J. Harwood, John Wheatley, Charles Ristau and Henry Foss, in the Village of Mullan, County of Shoshone, State and District of Idaho, being then and there trustees of the said Village of Mullan, as such trustees, agreed to and did discontinue the issuing of licenses for so-called soft drink places of business.

10. That on or about the fifth day of March, A. D., 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Joseph Speck sold five drinks of whiskey.

11. That on or about the twenty-fourth day of October, A. D., 1927, in the Village of Mullan, County of Shoshone, State and District of Idaho, Charles Hartley, sold one drink of whiskey.

12. That on or about the eleventh day of February, A. D., 1929, in the Village of Mullan, County of Sho-

shone, State and District of Idaho, at the Bolo Bar, William E. Coughlin, possessed an unknown amount of whiskey.

13. That on or about the twenty-eighth day of June, A. D., 1929, in the Village of Mullan, County of Shoshone, State and District of Idaho, Mike Kennedy sold two drinks of whiskey.

14. That on or about the fifth day of March, A. D. 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Curley Gardner sold four drinks of whiskey.

15. That on or about the fifth day of March, A. D. 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Roy Appleton sold twelve drinks of whiskey.

16. That on or about the eighteenth day of May, A. D. 1927, in the Village of Mullan, County of Shoshone, State and District of Idaho, James Normile sold one drink of whiskey.

17. That on or about the twenty-ninth day of June A. D. 1927, in the Village of Mullan, County of Shoshone, State and District of Idaho, Louis Trikla, had in his possession one pint of whiskey.

18. That on or about the thirteenth day of April A. D. 1929, in the Village of Mullan, County of Shoshone, State and District of Idaho, Charles Fond had in his

possession an unknown amount of whiskey.

19. That on or about the fifth day of March, A. D. 1928 in the Village of Mullan, County of Shoshone, State and District of Idaho, H. R. Wilcox sold four pints of beer.

20. That on or about the fifth day of March A. D., 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Frank Hahn sold two drinks of whiskey.

21. That on or about the fifth day of March A. D., 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, John Rantella, sold one pint of whiskey.

22. That on or about the third day of August, A. D., 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Mona McDonald, had in her possession, forty-two bottles of beer.

23. That on or about the twenty-sixth day of December, A. D. 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, Leauro Aro, had in his possession an unknown amount of beer and whiskey.

24. That on or about the twenty-second day of May A. D. 1927, in the Village of Mullan, County of Shoshone, State and District of Idaho, John Jaskara sold two drinks of whiskey.

25. That on or about the twenty-seventh day of December, A. D. 1928, in the Village of Mullan, County of Shoshone, State and District of Idaho, F. O. Welch delivered to J. L. Martin, a list showing payments by persons dealing in intoxicating liquors.

26. That on or about the twenty-seventh day of January, A. D. 1929, in the Village of Mullan, County of Shoshone, State and District of Idaho, F. O. Welch delivered to J. L. Martin, a list showing payments by persons dealing in intoxicating liquors.

27. That on or about the twenty-seventh day of February, A. D., 1929, in the Village of Mullan, County of Shoshone, State and District of Idaho, F. O. Welch delivered to J. L. Martin, a list showing payments by persons dealing in intoxicating liquors.

28. That on or about the twenty-seventh day of February, A. D., 1927, in the Village of Mullan, County of Shoshone, State and District of Idaho, Joseph Florin delivered to J. L. Martin, a list showing payments by persons dealing in intoxicating liquors.

29. That on or about the twenty-eighth day of March A. D. 1927, in the Village of Mullan, County of Shoshone, State and District of Idaho, Joseph Florin delivered to J. L. Martin, a list showing payments by persons dealing in intoxicating liquors.

30. That on or about the twenty-eighth day of April A. D., 1927, in the Village of Mullan, County of Sho-

shone, State and District of Idaho, Joseph Florin delivered to J. L. Martin, a list showing payments by persons dealing in intoxicating liquors.

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

H. E. RAY

United States Attorney for the
District of Idaho

WALTER DRISCOLL

Foreman of the U. S. Grand Jury.

WITNESSES EXAMINED BEFORE THE
GRAND JURY IN THE ABOVE CASE:

Joseph L. Martin	Geo. S. Price
James E. Gyde	D. A. Sloan
H. J. Hull	M. D. Needham
Anthony Hugh McGill	Marie Glazer
H. W. McCreery	F. A. Savage
D. E. Dennew	C. B. Steunenbergl
Josephine Tosher	Edith Darline Downen
Helen Grant	William Coumerith
Samuel C. Webb	Julius N. Johnson
J. D. Foster	Lela Margrelle Delama

Presented by the Foreman in open court and filed in the presence of the Grand Jury Nov. 11, 1929.

W. D. McREYNOLDS,
Clerk

(Title of Court and Cause)

PLEA IN ABATEMENT

Filed Nov. 21, 1929

Comes now R. E. Weniger, one of the defendants in the above entitled cause and by way of plea in abatement to the indictment and prosecution in said cause alleges:

I.

That the indictment in said cause was found and returned by a grand jury drawn from the Central Division of the District of Idaho.

II.

That the venire for the said grand jury required the Marshal to summon the said grand jury for the said Division from qualified grand jurors of the said Division; that the said grand jury was composed exclusively of residents of the said Division qualified to act as grand jurors; and held its sessions in said Division and found the indictment in this prosecution in the said Division, to-wit, in the city of Moscow, Idaho.

III.

That the crime charged in said indictment is alleged to have been committed in the Northern Division of the District of Idaho and the said indictment, for the reasons aforesaid, was not found or returned according to law, or by a grand jury empowered to return such indictment and gives no authority for the prosecution of this defendant in the Northern Division of the United

States District Court for the District of Idaho, and the said indictment is void and of no effect as a foundation for the prosecution in this cause.

WHEREFORE this defendant prays that the said indictment and prosecution be abated and that the bond of this defendant given in this cause be exonerated.

TURNER, NUZUM & NUZUM

Attorneys for Defendant,

Charles Bloom,

Residence and P. O. Address:

Spokane, Washington.

STATE OF IDAHO
COUNTY OF KOOTENAI } ss.

R. E. WENIGER, being first duly sworn on oath, deposes and says: That he is one of the defendants in the above entitled cause; that he has read the foregoing Plea in Abatement, and knows the contents thereof and that the same is true as he verily believes.

R. E. WENIGER

Subscribed and sworn to before me this 21st day of November, 1929.

CHAS. H. POTTS

Notary Public for the State of Idaho, residing at Coeur d'Alene

(SEAL)

(Title of Court and Cause)

PLEA IN ABATEMENT.

Filed Nov. 21, 1929

Comes now Charles Bloom, one of the defendants in the above entitled cause and by way of plea in abatement to the indictment and prosecution in said cause alleges:

I.

That the indictment in said cause was found and returned by a grand jury drawn from the Central Division of the District of Idaho.

II.

That the venire for the said grand jury required the Marshal to summon the said grand jury for the said Division from qualified grand jurors of the said Division; that the said grand jury was composed exclusively of residents of the said Division qualified to act as grand jurors; and held its sessions in said Division and found the indictment in this prosecution in the said Division, to-wit, in the city of Moscow, Idaho.

III.

That the crime charged in said indictment is alleged to have been committed in the Northern Division of the District of Idaho and the said indictment, for the reasons aforesaid, was not found or returned according to law, or by a grand jury empowered to return such in-

dictment and gives no authority for the prosecution of this defendant in the Northern Division of the United States District Court for the District of Idaho, and the said indictment is void and of no effect as a foundation for the prosecution in this cause.

WHEREFORE this defendant prays that the said indictment and prosecution be abated and that the bond of this defendant given in this cause be exonerated.

TURNER, NUZUM & NUZUM

Attorneys for Defendant,
Charles Bloom,

Residence & P. O. Address:
Spokane, Washington.

STATE OF IDAHO)
COUNTY OF KOOTENAI)ss.

CHARLES BLOOM, being first duly sworn on oath, deposes and says: That he is one of the defendants in the above entitled cause; that he has read the foregoing Plea in Abatement, and knows the contents thereof and that the same is true as he verily believes.

CHARLES BLOOM

Subscribed and sworn to before me this 21st day of
November, 1929.

CHAS. H. POTTS

Notary Public for the State of
Idaho, residing at Coeur d'Alene.

(SEAL)

(Title of Court and Cause)

ANSWER TO PLEA

Filed Nov. 22, 1929

Comes now the above named plaintiff and for answer to the plea in abatement of defendant R. E. Wenigar, denies each and every allegation of said plea in abatement, and prays the court that the same be denied,

DATED this 22nd day of November, A. D., 1929.

H. E. RAY,

United States Attorney
for the District of Idaho

(Title of Court and Cause)

ANSWER TO PLEA

Filed Nov. 22, 1929

Comes now the above named plaintiff and for answer to the plea in abatement of defendant Charles Bloom, denies each and every allegation of said plea in abatement, and prays the court that the same be denied,

DATED this 22nd day of November, A. D., 1929.

H. E. RAY,

United States Attorney
for the District of Idaho

(Title of Court and Cause)

MINUTES OF THE COURT

NOVEMBER 30, 1929

ORDER DENYING PLEAS IN ABATEMENT

This cause came on for hearing on the several pleas in abatement filed by or on behalf of certain defendants. The following named counsel for defendants were present, to wit: Messrs. Turner, Nuzum & Nuzum, Gray & Potts, Reed & Reed, N. D. Wernette and O. J. Bandolin. H. E. Ray, District Attorney and W. H. Langroise and Sam S. Griffin, Assistants, were present representing the plaintiff.

Documentary evidence was introduced on the part of the defendants, and

Honorable Charles C. Cavanah was sworn and examined as a witness on the part of the plaintiff,

Whereupon, the motions were argued before the Court by Messrs. George Turner of counsel for the defendants, other counsel for defendants submitted pleas of defendants represented by them on said argument.

The Court thereupon announced his decision and ordered that the said pleas in abatement and each of them be, and the same are hereby denied. Exceptions were allowed the defendants to the order.

(Title of Court and Cause)

MINUTES OF THE COURT

DECEMBER 16, 1929

This cause came regularly on for trial before the Court and a jury, H. E. Ray, District Attorney, and W. H. Langroise and Sam S. Griffin, Assistant District Attorneys, appearing for the plaintiff.

O. J. Bandolin, Esquire, was entered as associate counsel for the defendants Walter Johnson, Mike Kennedy, Jack Malloy, Babe Kelly, Jimmie Ryan, Bertha Strom, Mona McDonald and Regina Dalo.

On motion of the District Attorney, it was ordered that the indictment in its entirety be, and the same is hereby dismissed as to the defendant Henry Kohkonen, and said defendant was discharged and his bond fully exonerated.

The District Attorney assenting to the motion of the defendant Elmer Olson for a continuance, it was ordered that the trial of said defendant be continued for the term.

The trial proceeded as to the defendants Charles Anderson, William E. Coughlin, Waino Pikkerainen, Joseph Speck and Agnes West, who were present with their counsel, N. D. Wernette, Esquire; the defendants Roy Appleton, Herman Arblins, Milford Gardner, John Thompson and Charles Fond, who were present

with their counsel, Messrs. Reed & Reed; the defendants Charles Bloom, Anna Tornberg and R. E. Weniger, who were present with their counsel Messrs. Turner, Nuzum & Nuzum; the defendants Arthur J. Harwood, Henry Foss, George Huston, Harcourt Morphy, Charles Ristau, F. O. Welch and John Wheatley, who were present with their counsel Messrs. Gray & Potts; the defendants Regina Dalo, Mike Kennedy, Babe Kelly, John Malloy, Mona McDonald, Jimmie Ryan, Bertha Strom and Walter Johnson who were present with their counsel Messrs. George T. Walker and O. J. Bandolin; and the defendant Gust Aro who was present with his counsel O. J. Bandolin, Esquire.

The Clerk, under directions of the Court, proceeded to draw from the jury box the names of twelve persons, one at a time, written on separate slips of paper to secure a jury. F. O. Spoor, Frank Taylor, Ben Carrigan, Ole G. Langerak, John Cartwright and R. E. Dunlap, whose names were so drawn, were excused for cause; John W. Snyder, D. R. Holderman, J. J. Clark, Ed Anderson and Ralph C. Pense, whose names were also drawn, were excused on the plaintiff's peremptory challenge; and H. R. Davis, James Gunn, A. V. Chamberlain, F. W. Fitze, F. M. Saunders, Frank Horner, George Parr, C. M. Davis, John Larson and J. E. Wallace, whose names were likewise drawn, were excused on the defendants' peremptory challenge.

Following are names of the persons whoses names were drawn from the jury box, who were sworn and

examined on voir dire, found duly qualified, and who were sworn to well and truly try said cause and a true verdict render, to-wit:

J. W. Jeffries, A. W. Klein, Bert Fountain, Paul Neal, B. M. Sorenson, Alfon S. Berg, W. J. Chase, Bert Peterson, J. E. Massie, Frank Short, Samuel Sheperd, E. E. Dietze.

The Court admonished and instructed the bailiffs, Ludwig Roper and Leon T. Conditt, regarding their duties in keeping the jury together during the adjournments and recesses of court, and ordered that the jury be so kept together at all times during the trial of the cause, and said bailiffs were sworn in open court to faithfully perform the duties as directed and outlined by the Court.

After a statement of the Government's case by the District Attorney the indictment was read to the jury, who was informed of the plea entered thereto by each of said defendants.

Martin Dean Needham was sworn and examined as a witness and documentary evidence was introduced on the part of the United States.

The jury was excused to the charge of the bailiffs, and

It was ordered that further proceedings herein be continued to ten o'clock A. M. on December 17th, 1929.

MINUTES OF THE COURT

DECEMBER 17, 1929

The trial of this cause was resumed before the Court and Jury. Counsel for the plaintiff and the defendants and their counsel being present, the Jury was returned into court by the bailiffs.

Marcus D. Needham was recalled and further examined and Anthony H. McGill was sworn and examined, as witnesses on the part of the plaintiff.

Further trial of the cause was continued to ten o'clock A. M. December 18, 1929, and the Jury was excused, to the charge of the bailiffs, to be returned into court at that time.

MINUTES OF THE COURT

DECEMBER 18, 1929

The Government's counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon, the trial of the cause was resumed before the Court and jury.

Anthony H. McGill was recalled and further examined and J. L. Martin and James E. Gyde were sworn and examined as witnesses and documentary evidence was introduced on the part of the plaintiff.

Whereupon, it was ordered that the trial of the cause be continued to ten o'clock A. M. on December 19, 1929, and the jury retired in the charge of the bailiff, to be returned into court at that time.

MINUTES OF THE COURT

DECEMBER 19, 1929

The Government's counsel, the defendants and the defendants' counsel being present, the Jury was returned into court by the bailiffs.

Whereupon, the trial of the cause was resumed before the Court and Jury.

H. J. Hull, William Barren, Julius Johnson, S. C. Webb, F. P. Collins, R. W. Morgan, John D. Pyland, Paul Reed, George R. Hesser, W. A. McGill and H. W. Jewel were sworn and examined as witnesses on the part of the plaintiff.

The Court at this time excused the Jury to ten o'clock A. M. on December 20, 1929, and it retired in the charge of the bailiffs. Further trial of the cause was continued to that time.

MINUTES OF THE COURT

DECEMBER 20, 1929

The Government's counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon, the trial of the cause was resumed before the Court and Jury.

F. A. Savage, James B. Wilcox, Richard E. Cooper, Donald B. Rogers, D. A. Sloan, Earl Harvy McCreary and H. W. McCreary were sworn and examined as wit-

nesses on the part of the plaintiff, and J. L. Martin was recalled and further examined.

Whereupon, it was ordered that the trial of the cause be continued to ten o'clock A. M. on December 21, 1929, and the jury retired in the charge of the bailiffs, to be returned into court at that time.

MINUTES OF THE COURT

DECEMBER 21, 1929

The Government's counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon, the trial of the cause was resumed before the Court and Jury.

H. W. McCreary, William Barron and A. H. McGill were recalled and further examined and Helen Grant, Hazel Graham, Berdella McKinney, William Steele and Ray DeLama were sworn and examined as witnesses on the part of the plaintiff, and here the plaintiff rests.

Motions to dismiss the indictment as to each defendant were made by the counsel for the respective defendants, which motions were by the Court denied as to all except the defendant Jimmie Ryan whose motion was taken under advisement. Counsel for the respective defendants reserved exceptions to the Court's order denying the motions and exceptions were duly allowed to each.

MINUTES OF THE COURT

DECEMBER 23, 1929

The Government's counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon, the trial of the cause was resumed before the Court and Jury.

The Court at this time announced his decision on the motion of the defendant Jimmie Ryan for a dismissal, denying said motion. Exceptions to the order were allowed said defendant.

Upon request of the defendants' counsel A. E. McGill, R. E. Cooper and Donald Rogers were recalled for further cross examination.

Whereupon, Messrs. Turner, Nuzum & Nuzum renewed the motion to dismiss as to the defendants represented by them, which motion was again denied by the Court.

After a statement of the defense by Messrs. C. H. Potts, N. D. Wernette, William Reed, George T. Walker and Richard Nuzum, of counsel for the defendants, Henry Foss, Dr. D. E. Keys, Charles Ristau, John Wheatley, George Huston, Arthur J. Harwood, J. L. Martin, Charles Anderson and Joseph Speck were sworn and examined as witnesses on the part of the defendants.

MINUTES OF THE COURT

DECEMBER 24, 1929

The Government's counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon the trial of the cause was resumed before the Court and Jury.

Waino Pikkerainen, Agnes West, John Thompson, Milford Gardner, Roy Appleton, Herman Arbelius, Mike Kennedy, Gust Aro, Babe Kelly, and Mona McDonald were sworn and examined as witnesses on the part of the defendants.

MINUTES OF THE COURT

DECEMBER 26, 1929

The Government's counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon, the trial of the cause was resumed before the Court and Jury.

Charles K. Cartwright, John Murphy, C. E. Wethered, H. W. Ingals, J. B. Newberry, J. B. Wilcox, Mrs. John F. Gearon, Mrs. Della Taylor, John F. Gearon, Joe Goggin, M. M. Patterson, Mrs. Sarah Gearon, G. Halverson, Lucile Anderson, Alice Stevens, Thomas Campbell, Norman Ebbley, Arthur Britton, Charles A. Driscoll, Walter Frank, John W. Murphy, Ramsey M. Walker, Harry L. Day, Milton J. Flohr, Dr. E. R. Nason, A. H. Featherstone, Alex D.

Wallace, J. L. Martin, Roy Smith, Wilbur M. Disbrow, Louis Engebretsen, Jack Malloy, Charles Fond, S. S. Dundlach, R. E. Weniger and Charles J. Bloom were sworn and examined as witnesses on the part of the defendants.

MINUTES OF THE COURT

DECEMBER 27, 1929

The Government's counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon, the trial of the cause was resumed before the Court and Jury.

Charles Bloom and R. E. Weniger were recalled and further examined as witnesses on the part of the defendants, and here the defendants rest.

On rebutal Walter C. Clark and Ray Sheridan were sworn and examined and here both sides close.

Motions for instruction to the jury to return a verdict of not guilty were made on behalf of each defendant by his or her counsel. All of said motions were denied by the Court, exceptions being allowed each defendant.

The opening argument before the Jury was made by W. H. Langroise, Assistant District Attorney, on the part of the Government, and the cause was argued on the part of the defendants by C. H. Potts, Esquire.

The jury was committed to the charge of the bailiffs and further trial was continued to ten o'clock A. M. on December 28, 1929.

MINUTES OF THE COURT

DECEMBER 28, 1929

The Government's Counsel, the defendants, and the defendants' counsel being present, the Jury was returned into court by the bailiffs. Whereupon, the trial of the cause was resumed before the Court and Jury.

The cause was argued before the jury by Messrs. George T. Walker, W. T. Reed, O. J. Bandolin, N. D. Wernette and R. W. Nuzum on the part of the defendants, and the closing argument on the part of the plaintiff was made by H. E. Ray, District Attorney.

The Court instructed the jury and placed them in the charge of a bailiff duly sworn, and they retired to consider of their verdict.

Exceptions were taken to portions of the Court's instructions to the jury by Messrs. Turner, Nuzum & Nuzum and by Messrs. Gray & Potts and N. D. Wernette, on behalf of the defendants represented by them.

It was ordered that the Court recess subject to call of the Jury.

MINUTES OF THE COURT

DECEMBER 29, 1929

The District Attorney, the defendants and the defendants' counsel being present, the Jury was returned into court, and upon being called all were found present.

The Court asked the Jury if they had agreed upon a

verdict, and they, through their foreman, replied that they had, and thereupon presented to the Court their written verdict, which was in the words following, to-wit:

(Title of Court and Cause)

VERDICT

“We, the jury, in the above entitled cause find the defendant R. E. Weniger, guilty as charged in the Indictment.

We further find the defendant Charles Bloom guilty as charged in the Indictment.

*****”

Ten o'clock A. M. on Tuesday, December 31, 1929, was fixed as time for pronouncing judgment and the following named defendants were permitted to go on their bonds to appear at that time: Charles Anderson, Charles Bloom, Henry Foss, Arthur J. Harwood, George Huston, Harcourt Morphy, Waino Pikkerainen, Charles Ristau, Joseph Speck, R. E. Weniger, F. O. Welch and John Wheatley.

(Title of Court and Cause)

JUDGMENT

Comes now the District Attorney with the defendants R. E. Weniger, Charles Bloom, F. O. Welch, Harcourt Morphy, Arthur J. Harwood, John Wheatley, George Huston, Charles Ristau, Henry Foss, Agnes

West, Babe Kelly, Bertha Strom, Mona McDonald, Joseph Speck, John Malloy, William E. Coughlin, Charles Fond, Charles Anderson, Waino Pikkerainen, Walter Johnson, Mike Kennedy, Roy Appleton, Milford Gardner, Herman Arbelius and their counsel into court, this being the time fixed for judgment herein.

Each defendant was asked by the Court if he or she had any legal cause to show why judgment should not be pronounced, to which each replied that he or she had none, and no sufficient cause being shown or appearing to the Court.

Now, therefore, it is adjudged upon the verdict of the Jury that the defendants R. E. Weniger, Charles Bloom, F. O. Welch, Harcourt Morphy, Arthur J. Harwood, John Wheatley, George Huston, Charles Ristau, Henry Foss, Agnes West, Babe Kelly, Bertha Strom, Mona McDonald, Joseph Speck, John Malloy, William E. Coughlin, Charles Fond, Charles Anderson, Waino Pikkerainen, Walter Johnson, Mike Kennedy, Roy Appleton, Milford Gardner and Herman Arbelius, and the defendant Charles Hartley upon his plea are guilty of conspiracy to commit offences against the United States, as charged in the indictment.

It is further adjudged that the defendant R. E. Weniger pay a fine of \$1000.00 and be confined in the United States Penitentiary at McNeil Island, Washington for a term of two years. In default of payment of said fine defendant to be imprisoned in said peni-

tentiary until the payment thereof or until released by due process of law.

* * * * *

It is further adjudged that the defendant Charles Bloom be confined for a term of fifteen months in the United States Penitentiary at McNeil Island, Washington.

* * * * *

The defendants R. E. Weniger and Charles Bloom were granted to February 1, 1930, in which to prepare and file assignment of errors, and Monday, February 3, 1930, was fixed as time for hearing on motions for a new trial. Bonds on appeal were fixed as follows:

R. E. Weniger, Arthur J. Harwood, John Wheatley, George Huston, each \$5000.00; Charles Bloom, Charles Ristau, Henry Foss, F. O. Welch and Harcourt Morphy, each \$3000.00.

* * * * *

The defendants R. E. Weniger and Charles Bloom were released upon their bonds, pending appeal, and each of the other said defendants was committed to the custody of the United States Marshal to be by him delivered to the custody of the warden or sheriff of the prison to which he was committed.

(The foregoing is a true copy of the judgment entered in the above entitled case as pertains to the defendants R. E. Weniger and Charles Bloom.

Clerk)

R. E. Weniger and Charles Bloom

(Title of Court and Cause)

PETITION FOR REVERSAL

Filed December 31, 1929

Comes now the defendant, R. E. Wenigar, and prays for a reversal of the judgment of the District Court of the United States for the Northern Division of the District of Idaho in that certain criminal action Numbered 3035, in which judgment was rendered against this petitioning defendant on the verdict of a jury on the 29th day of December, 1929, in the said District Court.

TURNER, NUZUM & NUZUM,
O. J. BANDELIN,
Attorneys for Defendant Winegar.

Copy received December 31, 1929

H. E. RAY,
United States Attorney

(Title of Court and Cause)

PETITION FOR REVERSAL

Filed December 31, 1929

Comes now the defendant, Charles Bloom, and prays for a reversal of the judgment of the District Court of the United States for the Northern Division of the District of Idaho in that certain criminal action Numbered 3035, in which judgment was rendered against

this petitioner defendant on the verdict of a jury on the 29th day of December, 1929, in the said District Court.

TURNER, NUZUM & NUZUM,
O. J. BANDELIN,

Attorneys for Defendant Bloom.

Copy received December 31, 1929.

H. E. RAY,

United States Attorney

(Title of Court and Cause)

PETITION FOR APPEAL

Filed December 31, 1929

To the Honorable J. Stanley Webster, District Judge:

The above named R. E. Weniger, feeling aggrieved by the judgment rendered and entered in the above entitled cause on the 31st day of December, 1929, does hereby appeal from said judgment to the Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith, and he prays that his appeal be allowed, and that citation be issued as provided by law, and that a transcript of the record, proceedings and documents upon which said judgment was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, California, under the laws of said court in such cases made and provided, and your petitioner respectfully presents herewith his as-

signment of errors and prayer for reversal.

R. E. WENIGER,

Petitioner.

TURNER, NUZUM & NUZUM,
605 Columbia Building, Spokane,
Washington.

O. J. BANDELIN,

Sandpoint, Idaho.

Attorneys for Petitioner.

Copy received December 31, 1929.

H. E. RAY,

United States Attorney

(Title of Court and Cause)

PETITION FOR APPEAL

Filed December 31, 1929

To the Honorable J. Stanley Webster, District Judge:

The above named Charles Bloom, feeling aggrieved by the judgment rendered and entered in the above entitled cause on the 31st day of December, 1929, does hereby appeal from said judgment to the Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith, and he prays that his appeal be allowed, and that citation be issued as provided by law, and that a transcript of the record, proceedings and documents upon which said

judgment was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, California, under the laws of said court in such cases made and provided, and your petitioner respectfully presents herewith his assignment of errors and prayer for reversal.

CHARLES BLOOM,

Petitioner.

TURNER, NUZUM & NUZUM,
605 Columbia Building, Spokane,
Washington.

O. J. BANDELIN,
Sandpoint, Idaho.

Attorneys for Petitioner.

Copy received December 31, 1929.

H. E. RAY,

United States Attorney

(Title of Court and Cause)

SUPERSEDEAS ORDER

Filed December 31, 1929

This cause coming on to be heard this 31st day of December, 1929, upon the application of the appellant, R. E. Winegar, for an appeal to the Circuit Court of Appeals of the United States, and said appeal having been allowed:

IT IS ORDERED that the same shall operate as a supersedeas, the said appellant having executed a bond in the sum of \$5000.00 as provided by law, and the Clerk is hereby directed to stay the mandate of the District Court of the United States for the Northern Division of the District of Idaho until the further order of the court.

J. STANLEY WEBSTER,
Judge.

(Title of Court and Cause)

SUPERSEDEAS ORDER

Filed December 31, 1929

This cause coming on to be heard this 31st day of December, 1929, upon the application of the appellant, Charles Bloom, for an appeal to the Circuit Court of Appeals of the United States, and said appeal having been allowed:

IT IS ORDERED that the same shall operate as a supersedeas, the said appellant having executed a bond in the sum of \$3000.00, as provided by law, and the Clerk is hereby directed to stay the mandate of the District Court of the United States for the Northern Division of the District of Idaho until the further order of the court.

J. STANLEY WEBSTER,
Judge.

(Title of Court and Cause)

ORDER EXTENDING TIME
ASSIGNMENTS OF ERROR

Filed December 31, 1929

The necessity therefore appearing to the court,

It is hereby ordered that the defendant R. E. Weniger may have and is hereby granted to and including February 1, 1930, in which to prepare, serve and file his assignments of error on appeal in the above entitled cause.

Dated this 31st day of December, 1929.

J. STANLEY WEBSTER,

Judge.

(Title of Court and Cause)

ORDER EXTENDING TIME
ASSIGNMENTS OF ERROR

Filed December 31, 1929

The necessity appearing therefore to the court,

It is hereby ordered that the defendant Charles Bloom may have and is hereby granted to and including February 1, 1930, in which to prepare, serve and file his assignments of error on appeal in the above entitled cause.

Dated this 31st day of December, 1929.

J. STANLEY WEBSTER,

Judge.

(Title of Court and Cause)

**MOTION TO EXTEND TIME TO FILE
BILL OF EXCEPTIONS.**

Filed December 31, 1929

Come now the defendants R. E. Winegar and Charles Bloom, and move the court for an order extending the time within which to serve and file their bill of exceptions herein to and including the 3rd day of March 1930.

**TURNER, NUZUM & NUZUM,
O. J. BANDELIN,**

Attorneys for Defendants R. E.
Winegar and Charles Bloom.

(Title of Court and Cause)

**ORDER EXTENDING TIME TO FILE
BILL OF EXCEPTIONS**

Filed December 31, 1929

This cause coming on for hearing upon the motion of the defendant R. E. Winegar for an order extending the time within which to serve and file bill of exceptions to and including March 3, 1930, and the court having considered said motion and being advised in the premises:

IT IS ORDERED that said motion be and the same

is hereby granted, and the time hereby extended to and including March 3, 1930 within which defendant R. E. Winegar may file bill of exceptions herein.

Done in open Court this 31st day of December, 1929.

J. STANLEY WEBSTER,
Judge.

(Title of Court and Cause)

ORDER EXTENDING TIME TO FILE

BILL OF EXCEPTIONS

Filed December 31, 1929

This cause coming on for hearing upon the motion of the defendant Charles Bloom for an order extending the time within which to serve and file bill of exceptions to and including March 3, 1930, and the court having considered said motion and being advised in the premises:

IT IS ORDERED that said motion be and the same is hereby granted, and the time hereby extended to and including March 3, 1930 within which defendant Charles Bloom may file bill of exceptions herein.

Done in open Court this 31st day of December, 1929.

J. STANLEY WEBSTER,
Judge.

(Title of Court and Cause)

PETITION FOR APPEAL OF
CHARLES BLOOM

Filed January 20, 1930

To the Honorable J. Stanley Webster, District Judge:

The above named Charles Bloom, feeling aggrieved by the judgment rendered and entered in the above entitled cause on the 31st day of December, 1929, does hereby appeal from said judgment to the Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith, and he prays that his appeal be allowed, and that citation be issued as provided by law, and that a transcript of the record, proceedings and documents upon which said judgment was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, California, under the laws of said court in such cases made and provided, and your petitioner respectfully presents herewith his assignment of errors and prayer for reversal.

CHARLES BLOOM,

Petitioner.

TURNER, NUZUM & NUZUM,
605 Columbia Building, Spokane,
Washington.O. J. BANDELIN,
Sandpoint, Idaho

Attorneys for Petitioner.

Copy received Jan. 20, 1930

H. E. RAY,
United States Attorney

(Title of Court and Cause)

PETITION FOR APPEAL OF

R. E. WENIGER

Filed January 20, 1930

To the Honorable J. Stanley Webster, District Judge:

The above named R. E. Winegar, feeling aggrieved by the judgment rendered and entered in the above entitled cause on the 31st day of December, 1929, does hereby appeal from said judgment to the Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith, and he prays that his appeal be allowed, and that citation be issued as provided by law, and that a transcript of the record, proceedings and documents upon which said judgment was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, California, under the laws of said court in such cases made and provided, and your petitioner respectfully presents herewith his assignment of errors and prayer for reversal.

R. E. WINEGAR,

Petitioner.

TURNER, NUZUM & NUZUM,
O. J. BANDELIN,
Attorneys for Petitioner.

Copy received Jan. 20, 1930

H. E. RAY,
United States Attorney.

(Title of Court and Cause)

ORDER ALLOWING APPEAL

Filed January 20, 1930

On motion of Turner, Nuzum & Nuzum and O. J. Bandelin, counsel for defendant, R. E. Weniger:

IT IS HEREBY ORDERED that the appeal to the Circuit Court of Appeals of the United States from the judgment entered heretofore and filed herein be and the same is hereby allowed, and that a certified transcript of the record, testimony, exhibits and all proceedings be forthwith transmitted to said Circuit Court of Appeals.

IT IS FURTHER ORDERED that the bond on appeal be fixed at five thousand dollars (\$5000.00), the same to act as a supersedeas bond and also for costs and damages on appeal, and that the supersedeas bond and bond on appeal heretofore filed and approved by the court on December 31, 1929, be accepted as a supersedeas bond and bond on appeal, and to remain in full force and effect.

Done in open Court this 16th day of January, 1930.

J. STANLEY WEBSTER,

Judge.

Copy received January 20, 1930.

H. E. RAY,

United States Attorney.

(Title of Court and Cause)

ORDER ALLOWING APPEAL

Filed January 20, 1930

On motion of Turner, Nuzum & Nuzum and O. J. Bandelin, counsel for defendant, Charles Bloom:

IT IS HEREBY ORDERED that the appeal to the Circuit Court of Appeals of the United States from the judgment entered heretofore and filed herein be and the same is hereby allowed, and that a certified transcript of the record, testimony, exhibits and all proceedings be forthwith transmitted to said Circuit Court of Appeals.

IT IS FURTHER ORDERED that the bond on appeal be fixed at three thousand dollars (\$3000.00), the same to act as a supersedeas bond and also for costs and damages on appeal, and that the supersedeas bond and bond on appeal heretofore filed and approved by the court on December 31, 1929, be accepted as a supersedeas bond and bond on appeal, and to remain in full force and effect.

Done in open Court this 16th day of January, 1930.

J. STANLEY WEBSTER,

Judge.

Copy received January 20, 1930.

H. E. RAY,

United States Attorney.

(Title of Court and Cause)

BOND ON APPEAL

Filed December 31, 1929

KNOW ALL MEN BY THESE PRESENTS:

That we, R. E. Weniger as principal, and The Aetna Casualty & Surety Company of Hartford, Conn., as surety, of the County of Shoshone, State of Idaho, are held and firmly bound unto the United States in the sum of \$5000.00 lawful money of the United States, to be paid to it and its successors, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and each of our heirs, executors, administrators and successors by these presents.

Sealed with our seals and dated this 31st day of December, 1929.

WHEREAS, the above named R. E. Winiger has prosecuted an appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit, to reverse the judgment of the District Court of the United States

for the Northern Division of the District of Idaho in the above entitled cause;

NOW THEREFORE, the condition of this obligation is such that if the above named Weniger shall prosecute his said appeal to effect, and answer all costs, if he fail to make good his plea, and abide by and perform the sentence of the law imposed upon him, then this obligation shall be void; otherwise to remain in full force and effect.

R. E. WENIGER,

(SEAL)

Principal.

THE AETNA CASUALTY &
SURETY CO.

(SEAL)

By HERMAN J. ROSSI,
Resident Vice President
Surety

Attest: OSCAR W. NELSON,
Resident Assistant Secretary.

Approved this 31st day of December, 1929.

J. STANLEY WEBSTER,

Judge.

(Title of Court and Cause)

BOND ON APPEAL

Filed December 31, 1929

KNOW ALL MEN BY THESE PRESENTS:

That we, Charles J. Bloom, as principal, and The

Aetna Casualty & Surety Co., of Hartford, Conn., as surety, of the County of Shoshone, State of Idaho, are held and firmly bound unto the United States in the sum of \$3000.00 lawful money of the United States, to be paid to it and its successors to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and each of our heirs, executors, administrators and successors by these presents.

Sealed with our seals and dated this 31st day of December, 1929.

WHEREAS, the above named Charles J. Bloom has prosecuted an appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit, to reverse the judgment of the District Court of the United States for the Northern Division of the District of Idaho in the above entitled cause;

NOW THEREFORE, the condition of this obligation is such that if the above named Bloom shall prosecute his said appeal to effect, and answer all costs, if he fail to make good his plea, and abide by and perform the sentence of the law imposed upon him, then this obligation shall be void; otherwise to remain in full force and effect.

CHARLES J. BLOOM,

(SEAL)

Principal

THE AETNA CASUALTY &
SURETY CO.

(SEAL)

By HERMAN J. ROSSI,
Resident Vice-President
Surety

Attest: OSCAR W. NELSON,
Resident Assistant Secretary.

Approved this 31st day of December, 1929.

J. STANLEY WEBSTER,
Judge.

(Title of Court and Cause)

NOTICE OF APPEAL

Filed December 31, 1929

Comes now R. E. Winegar, defendant in the above entitled case, and enters his appeal from the final judgment of this Honorable Court, rendered in the above case December 31, 1929, to the Circuit Court of the United States for the Ninth Circuit, returnable before said Court at San Francisco, California on the first day of the term of said court, hereafter to be held.

The United States of America and Honorable H. E. Ray, District Attorney of the United States for the District of Idaho, attorney of record, will please take notice of said appeal, the same being taken under the act of Congress, approved January 31, A. D. 1928, entitled "An act in reference to writs of error."

R. E. WINEGAR,
Defendant.

TURNER, NUZUM & NUZUM,
O. J. BANDELIN,
Attorneys for Defendant Winegar.

Copy received December 31, 1929.

H. E. RAY,
United States Attorney.

(Title of Court and Cause)

NOTICE OF APPEAL

Filed December 31, 1929

Comes now Charles Bloom, defendant in the above entitled cause, and enters his appeal from the final judgment of this Honorable Court, rendered in the above case December 31, 1929, to the Circuit Court of the United States for the Ninth Circuit, returnable before said Court at San Francisco, California on the first day of the term of said court, hereafter to be held.

The United States of America and Honorable H. E. Ray, District Attorney of the United States for the District of Idaho, attorney of record, will please take notice of said appeal, the same being taken under the act of Congress, approved January 31, A. D. 1929, entitled "An act in reference to writs of error."

CHARLES BLOOM,

By TURNER, NUZUM & NUZUM,
O. J. BANDELIN,

Attorneys for Defendant Charles
Bloom.

Copy received December 31, 1929.

H. E. RAY,
United States Attorney.

(Title of Court and Cause)

CITATION

Filed December 31, 1929

UNITED STATES OF AMERICA, ss.

To the United States and to H. E. Ray, District Attorney of the United States, and attorney of record in the above-entitled cause:

You are hereby cited and admonished to be and appear at the Circuit Court of Appeals of the United States for the Ninth Circuit, to be held at the City of San Francisco, California, on the 31st day of January, 1930, pursuant to an order allowing an appeal, filed and entered in the Clerk's office of the District Court of the United States for the Northern Division of the District of Idaho from a final judgment signed, filed and entered on the 31st day of December, 1929, in that certain criminal action Numbered 3035, wherein the United States of America is plaintiff and the above named R. E. Winegar is defendant, and appellant, to show cause, if any there be, why the judgment rendered against the said defendant and appellant, as in said order allowing the appeal mentioned, should not be corrected, and why justice should not be done to the parties in that behalf.

WITNESS the Honorable J. Stanley Webster, United States Judge for the Eastern District of the State of Washington, sitting in the said court in said case, and presiding in said court under the order of the presiding judge of the Circuit Court of Appeals for the Ninth Circuit this 31st day of December, 1929, and of the Independence of the United States 153 years.

J. STANLEY WEBSTER,
United States District Judge.

Copy received December 31, 1929.

H. E. RAY,
United States Attorney.

(Title of Court and Cause)

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J. STANLEY WEBSTER,
United States District Judge.

Copy received December 31, 1929.

H. E. RAY,
United States Attorney.

(Title of Court and Cause)

ASIGNMENT OF ERRORS

(Filed January 20, 1930)

Now come the defendants, R. E. Winegar, and Charles Bloom, and each of them, in the above entitled cause, and file the following assignments of error, upon which they, and each of them, will rely upon their, and each of their prosecution of the appeal in the above entitled cause from the judgment made by this Honorable Court on the 31st day of December, 1929:

1. That the United States District Court for the District of Idaho, Northern Division erred in overruling the plea in abatement interposed by the defendants and appellants, and each of them, to the indictment returned and filed in said cause.

2. The court erred in overruling the objection made by these defendants to the testimony of one Needham, as follows:

Q. Did you confer with Harwood?

A. I met Wheatley later, and he asked me the same thing.

MR. NUZUM: I represent Sheriff Winegar, and I object to that as hearsay, incompetent, irrelevant and immaterial. I do not know that any talk he had with Wheatley would—

THE COURT: Is Wheatley included here?

MR. RAY: Yes, he is one of the councilmen of the Village of Mullan.

THE COURT: Included in this indictment?

MR. RAY: Yes.

THE COURT: Overruled.

MR. NUZUM: Exception.

3. The court erred in overruling the objection made by these defendants to the testimony of one Needham, as follows:

Q. And after you put in your application state what, if anything, happened?

A. At the meeting of the second of May I was selected.

MR. RAY: Q. What happened at that meeting, Mr. Needham?

MR. NUZUM: May this all be considered as going in under objection? I cannot see that this has got anything to do with any conspiracy.

THE COURT: The objection is overruled.

MR. NUZUM: May we have an exception?

THE COURT: Yes sir. I think it may be understood now so far as this court is concerned that each counsel may consider it understood that an exception is reserved and allowed to all adverse rulings.

4. The court erred in admitting in evidence Plaintiff's Exhibit No. 1; Exhibit No. 1 being offered and the following having taken place:

Q. Handing you now Plaintiff's Exhibit No. 1 for identification, Mr. Needham, I will ask you if that is the list to which you have just made reference.

A. Yes, sir, that is the list.

MR. RAY: We offer that in evidence, your honor.

MR. POTTS: We object to it on the grounds it is incompetent and immaterial, not the best evidence, and that no accounting has been made of the original list. This is a typewritten copy.

THE COURT: And the objection is overruled.

MR. WALKER: The same objection.

MR. NUZUM: On behalf of Bloom and Winegar, I desire to object as incompetent and immaterial. It has got to be connected up.

THE COURT: Of course, counsel understands that where there is a large number of defendants on trial that testimony may be competent as to a particular defendant and not competent as to others, and the court will have to take care of that in its instructions to the jury. If the testimony is competent as against any defendant, of course, it has to go before the jury.

MR. NUZUM: I understand that, your honor, and I do not want it to be deemed that I had waived it, that is the only reason I suggested it to your honor.

5. The court erred in overruling the motion to strike the answer of the witness Needham as follows:

A. That indicated the amount that was collected for running a gambling game.

Q. At the Central Hotel?

MR. NUZUM: What was that?

A. Gambling.

MR. RAY: Q. Who was running the Central Hotel at the time you went in office?

A. Sir Forsythe.

MR. POTTS: Just a moment, if that is all there is

to that, I move that the answer with respect to it be stricken out as immaterial and irrelevant, having no bearing on the charge in this case.

THE COURT: Motion is denied.

6. The court erred in denying the motion to strike the testimony of the witness Needham with respect to Charley Hartley, as follows:

MR. RAY: Q. The next one appearing on here is "Mullen Pool Hall, \$25.00." What does that indicate?

A. Well, that is also for gambling.

THE COURT: I did not hear that.

A. That was for gambling also.

MR. RAY: Q. And who was running the pool hall at the time?

A. Charley Hartley.

Q. Charles Hartley?

MR. POTTS: I make the same motion with respect to that, your honor.

THE COURT: The same ruling.

7. The court erred in refusing to strike the testimony of the witness Needham with reference to Mrs. Burns, Noodle Parlors, Mucker's Club, Fern Hotel Apartments, and Bertha Strom, which is as follows:

Q. The next is "Mrs. Burns, Noodle Parlors, \$25.00 and \$15.00 each", what does that mean?

A. That means twenty-five for Mrs. Burns. She is supposed to be the landlady in the case, and fifteen dollars each for her girls.

Q. What kind of a house is that?

A. A house of prostitution.

Q. "Mucker's Club \$25.00," what does that indicate?

A. That is for gambling.

Q. "Fern Hotel Apartments, \$25.00 and \$15.00 each", what does that mean?

A. That was for prostitution.

Q. Who was operating that at the time you went in office.

A. Bertha Strom.

Q. One of the defendants named in this case?

MR. BANDELIN: At this time the defendant objects to any testimony along that line and asks that it be stricken on the ground it does not prove or tend to prove any matter alleged in this indictment.

THE COURT: The motion is denied.

8. The court erred in refusing to strike the testimony of the witness Needham with reference to the Marble Front, which is as follows:

Q. All right, sir. "Marble Front, \$25.," what does that indicate?

A. Marble Front, that was for gambling.

Q. "Marble Front Apartments, Harwood's, \$25.00 and \$15.00 each, at 218 Earl Avenue," what does that indicate?

A. That was for prostitution.

Q. Who was operating that place when you went into office, if you remember?

A. Babe Kelly.

Q. One of the defendants in this case?

A. Yes sir.

MR. BANDELIN: I move that that testimony be stricken on the grounds heretofore stated.

THE COURT: Denied.

9. The court erred in refusing to strike the testimony of the witness Needham with reference to the Yellowstone Cigar Store, as follows:

Q. "Yellowstone Cigar Store, \$35.00," what does that indicate?

A. That is for gambling.

Q. Who was operating that at the time you went in office?

A. Charles Hartley and Gus Aro.

Q. The defendants named in this case?

MR. BANDELIN: At this time I ask that that be stricken on the ground it does not prove or tend to prove any issues charged in this case.

THE COURT: Motion is denied.

10. The court erred in admitting in evidence Plaintiff's Exhibit No. 2, as follows:

Mr. RAY: I now offer Plaintiff's Exhibit No. 2 in evidence. Counsel have examined it.

Mr. NUZUM: On behalf of Winegar and Bloom, I object to it as incompetent, irrelevant and immaterial.

THE COURT: The objection to the introduction will be overruled. I will take care of it so far as it may affect anyone who is not included in it.

11. The court erred in overruling the objection of

the defendants to the testimony of the witness Needham, as follows:

Q. Now, why did you present this list each month just to the particular individuals rather than to the village generally as would indicate from the heading of this list, Mr. Needham?

MR. NUZUM: I think that is immaterial, if your honor please.

THE COURT: Overruled.

12. The Court erred in overruling the objections of defendants to the testimony of the witness Needham, as follows:

Q. Very well. With respect to Charles Fond, did you have a conversation with Charles Fond on February 24th, relative to this whiskey business in Mullan?

A. Well, it was sometime around the 24th that—

Q. Where was that—in Mullan?

A. It was in Mullan, but I am not certain whether it was in what is known as the Mullan Pool Hall or the Stockholm, and he told me at that time—

MR. NUZUM: Objected to. I think it is incompetent.

THE COURT: The objection will be overruled.

13. The court erred in overruling the objection of defendants to the testimony of the witness McGill, as follows:

Q. And when was this talk with Mr. Bloom?

A. It was a few days after election.

Q. A few days after election?

A. Yes sir.

THE COURT: In 1928?

A. Yes sir.

MR. RAY: Q. Very well, now then, go ahead and state.

MR. NUZUM: I object as incompetent, irrelevant and immaterial.

THE COURT: Objection is overruled.

MR. NUZUM: Exception.

14. The court erred in overruling the objection of defendants to the testimony of the witness McGill, as follows:

MR. RAY: Q. What had you done?

MR. NUZUM: I object as immaterial what he had done in election.

THE COURT: What he had done in connection with Bloom he may state.

A. I just donated my car to the boys for service to help them out.

MR. NUZUM: Now, if your Honor please, I move to strike that. Bloom was not a candidate for office.

THE COURT: Denied.

MR. NUZUM: Exception.

15. The court erred in admitting in evidence the testimony of the witness McGill with reference to election, as follows:

MR. RAY: Q. Was Mr. Bloom present on election day at Mullan?

A. Yes sir.

Q. Did he have anything to do with the use of your car?

A. Yes sir.

MR. NUZUM: All of this with reference to election goes in under my objection, if your Honor please. I object to it as incompetent, irrelevant and immaterial. It does not make any difference what anybody does with reference to a state election.

THE COURT: The objection is overruled.

MR. NUZUM: Exception.

16. The court erred in overruling the objection of defendants to the testimony of the witness McGill as follows:

Q. What if anything did you do relative to banners or posters on your car?

MR. NUZUM: Just a minute, I object to that as incompetent, irrelevant and immaterial. That is not a conversation with the defendant.

THE COURT: Objection overruled.

MR. NUZUM: Exception.

17. The court erred in sustaining the objection to the question of the witness McGill on cross-examination, as follows:

Q. And you have stated to numerous people that you did not care what became of the other people but you wanted to cinch Weniger and Bloom, haven't you?

MR. RAY: Just a moment, I object to the question.

THE COURT: The objection is sustained.

MR. NUZUM: Exception. That is all.

18. The court erred in overruling the objection of the defendants to the introduction of Plaintiff's Exhibit No. 4 (which are pages 123, 124, 125, 126 of said exhibit), as follows:

Q. State generally what that ordinance pertains to.

A. That ordinance regulates the income from licenses.

Q. Occupational Tax Ordinance?

A. Yes.

MR. RAY: We offer in evidence, pages 123, 124, 125 and 126, of plaintiff's exhibit 4 for identification.

THE COURT: That being all the pages containing that ordinance?

MR. RAY: Yes.

MR. POTTS: I object to the reception of the record as incompetent, irrelevant and immaterial, and represents legislative action of the Trustees of the Village of Mullan.

THE COURT: Overruled.

MR. NUZUM: On behalf of the defendant Winegar, I object to it as incompetent, irrelevant and immaterial for any purpose at this stage.

THE COURT: Overruled.

MR. NUZUM: And on behalf of the defendant Bloom I make the general objection that it is incompetent, irrelevant and immaterial.

THE COURT: Overruled.

19. The court erred in overruling the objections of defendants to the introduction of page 121 of Plaintiff's Exhibit No. 4, being Ordinance No. 103 referred to in

Section 36 of Ordinance No. 105 of the Village of Mullan, as follows:

MR. RAY: We offer in evidence Page 121 of plaintiff's exhibit No. 4 for identification.

MR. POTTS: We object to this offer and to the reception in evidence of this exhibit on the ground it is incompetent, irrelevant and immaterial, and before completing my objection, your Honor, I wish to ask the witness a question in regard to it.

THE COURT: Very well.

MR. POTTS: Q. When was this ordinance adopted by the Board of Village Trustees of Mullan?

A. In 1922, but I cannot call the date without looking it up.

MR. POTTS: Q. Will you look at the record, please.

A. The 6th day of September, 1922.

MR. POTTS: And was it superseded and repealed by Ordinance No. 105? Is that the ordinance referred to?

A. That is the ordinance referred to, but I did not notice that in reading that ordinance a minute or two ago that it did repeal that. If it did, it so states in Ordinance No. 105.

MR. POTTS: Q. This is the ordinance No. 103 referred to in section 36 of ordinance No. 105?

A. Yes sir.

MR. NUZUM: On behalf of the defendants Weniger and Bloom and Anna Tornberg, I object to this as incompetent, irrelevant and immaterial, and I rather

gather from what Mr. Martin said that this ordinance has now been repealed. It was repealed by ordinance No. 105. And it seems to me it is pretty remote, if your Honor please, 1922. The date of the conspiracy is 1924. I think it was before Mr. Weniger even became a sheriff of Shoshone County. He was elected he tells me in 1923. This ordinance was passed long prior to his election and has been repealed, and it would be incompetent and immaterial in any event as against either Mr. Weniger or Mr. Bloom.

20. The court erred in admitting in evidence page 247 as No. 5-A, of plaintiff's Exhibit No. 5, as follows:

MR. RAY: We offer in evidence Page 247 as No. 5-A, of plaintiff's exhibit No. 5.

MR. NUZUM: On behalf of the defendants, Weniger and Bloom, I object to it as incompetent, irrelevant and immaterial and that any action by a village board or a municipality is within the jurisdiction and rights of that board and can be no basis for the violation of any Federal statute. On behalf of the defendant Anna Tornberg I object as incompetent, irrelevant and immaterial.

THE COURT: And the objections will be overruled.

21. The court erred in overruling defendants' objection to the last three lines of Page 245 and the entire page of 246 of Plaintiff's Exhibit No. 5-B, as follows:

MR. RAY: We offer in evidence the last three lines of Page 245 and the entire page 246 as plaintiff's exhibit

bit No. 5-B.

MR. NUZUM: I object to this as incompetent, irrelevant and immaterial. The ordinance passed was ordinance No. 106.

MR. RAY: Designated as that.

MR. NUZUM: It is so designated and I assume that that is what it is, and the ordinance referred to here is 105. I think it is incompetent, irrelevant and immaterial generally on behalf of the defendants I represent and showing on its face that it is a different ordinance than the one that was passed in February.

THE COURT: The objections will be overruled.

MR. NUZUM: Exception.

THE COURT: It will be admitted in evidence.

22. The court erred in admitting in evidence Plaintiff's Exhibit No. 5-C, as follows:

MR. RAY: I offer in evidence Government's exhibit No. 5-C, page 238, beginning with the third paragraph, and including the entire page.

MR. NUZUM: In behalf of my clients, I desire to object to any of these records of the Village of Mullan—I think they are competent, but I make this suggestion that there is a lot of stuff in there, such as passing on bills, and so forth, that I do not see can have anything to do with this transaction—contract with the electric company, and all that stuff, simply encumbers the record.

MR. RAY: If counsel will permit, I shall only read that portion of it—this is offered only for the purpose of showing the election of certain defendants as officials

of the Village of Mullan.

THE COURT: If that is the purpose, it will be admitted.

23. The court erred in admitting in evidence Plaintiff's Exhibit 5-D, as follows:

Q. Calling your attention to page 267, plaintiff's exhibit 5, for identification, I will ask you generally what that purports to be?

A. That is a record of the proceedings of the Village Trustees of Mullan, May 4th, 1925.

MR. RAY: I offer in evidence as plaintiff's exhibit 5-D, page 267, being—having to do with the election returns of the Village Trustees.

MR. NUZUM: For the same purpose?

MR. RAY: Yes.

MR. NUZUM: On the part of Mr. Bloom and Mr. Weniger, I object to it as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

24. The court erred in admitting in evidence Plaintiff's Exhibit 5-E, being page 342 of Plaintiff's Exhibit No. 5, as follows:

MR. RAY: I offer in evidence page 342, plaintiff's exhibit No. 5 designated as Plaintiff's Exhibit No. 5-E pertaining to the election of the trustees of the Village of Mullan.

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial, on behalf of Mr. Winegar and Mr. Bloom.

THE COURT: Overruled. The exhibits will be

admitted.

25. The court erred in overruling defendants' objections to Exhibit No. 5-F, as follows:

MR. RAY: We offer in evidence as Plaintiff's Exhibit 5-F, that portion of page 588, of the minutes of the Village of Mullan having reference to the election returns had May 6, 1929.

MR. NUZUM: The same objection on behalf of Winegar and Bloom.

THE COURT: Overruled. The exhibit may be admitted.

26. The court erred in overruling defendants' objections to the admission in evidence of Plaintiff's Exhibit No. 5-G, as follows:

MR. RAY: We offer in evidence as plaintiff's exhibit No. 5-G, that portion of the minutes of the Village of Mullan of December 7th, 1925, having to do with the appointment of a Chief of Police.

MR. POTTS: I object to that as incompetent, irrelevant and immaterial.

MR. NUZUM: The same objection.

THE COURT: The objection will be overruled and the exhibit admitted.

27. The court erred in overruling the objection of the defendants to the following question:

MR. RAY: I may state to the court and counsel that I desire to show the members in attendance at the Village Board meeting from May 2nd, 1927, through to November, 1928, during the period in which Chief of Police Needham was Chief of Police, and I ask if it

is necessary to introduce—if counsel will object to the formal reading from the minutes the names of those present, or will you insist upon introducing every meeting.

MR. NUZUM: I have no objection to the manner, but I desire to make the same objection, incompetent, irrelevant and immaterial.

THE COURT: The objection on other grounds will be overruled. I understand there is no objection to the manner of proving who was present. You may read them to the jury.

28. The court erred in overruling the objection of the defendants to the admission of Plaintiff's Exhibit 6-A to 6-J, both inclusive, as follows:

MR. RAY: I renew the offer of plaintiff's Exhibit 6-A to 6-J, both inclusive.

MR. NUZUM: On behalf of the defendants I represent I object as incompetent, irrelevant and immaterial.

THE COURT: The objections will be overruled and the exhibits admitted.

29. The court erred in overruling the objection of the defendants to the admission of Exhibit No. 7, as follows:

Q. Did you pursue the same practice with respect to plaintiff's exhibit No. 7 that you did with respect to plaintiff's exhibit No. 2 when these slips were delivered to you from month to month.

A. I did.

Q. And deposited the money to your credit as the

treasurer of the Village of Mullan?

A. Yes sir.

Q. In each and every instance?

A. Yes sir.

MR. RAY: We offer in evidence plaintiff's exhibit No. 7.

MR. NUZUM: I object to it as incompetent, irrelevant and immaterial on behalf of the defendants I represent.

THE COURT: The objections will be overruled and the exhibits admitted.

30. The court erred in overruling the objections of the defendants to the admission of Exhibit No. 10 as follows:

MR. RAY: We offer in evidence plaintiff's exhibit No. 10.

MR. POTTS: On behalf of the clients I represent, I object to that as incompetent, irrelevant and immaterial.

MR. NUZUM: On behalf of those I represent, I offer the same objection.

THE COURT: Overruled. It may be admitted.

31. The court erred in overruling the objection of defendants to the admission of Page 393 of Plaintiff's Exhibit No. 5, designated as 5-I, as follows:

MR. RAY: I offer in evidence page 391 of plaintiff's Exhibit No. 5 for identification, same being designated 5-I, showing the members of the village council present at that meeting.

MR. WERNETTE: I object to that as incompe-

tent, irrelevant and immaterial.

MR. NUZUM: The same objection.

THE COURT: Overruled.

32. The court erred in overruling the objection of the defendants to the statement of the witness Martin as to what took place at the meeting of the trustees, as follows:

Q. Before proceeding, does this refresh your memory to the extent that you can tell who was present at this meeting?

A. It has.

Q. Proceed.

A. Who was present?

Q. And what happened?

A. Harwood, Wheatley, Ristau, and—

THE COURT: Huston!

MR. RAY: Huston or Price!

A. Huston was present at that meeting. And Mr. Welch also. I stated—

MR. NUZUM: I object to anything that he stated as incompetent, irrelevant and immaterial.

THE COURT: Overruled. Go ahead.

33. The court erred in overruling the objection of defendants to the testimony of the witness Martin, as follows:

Q. Did you tell them any reason that Hull had given you for that, if he did say anything?

MR. NUZUM: The same objection.

THE COURT: Confine yourself now to what you reported to the members of the board?

A. I told them that Mr. Hull stated that the Government Prohibition Officers were making an investigation of the situation existing in the district, what was being done in that line, and that his advice was that we discontinue that practice.

Q. Thereupon what was done by the members?

MR. NUZUM: The same objection.

THE COURT: Overruled.

34. The court erred in overruling the objections of defendants to the testimony of the witness Martin, as follows:

Q. Thereafter have you issued any soft drink licenses—\$25.00 a month licenses?

MR. NUZUM: Object to that as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

Mr. NUZUM: Exception.

35. The court erred in overruling the objections of the defendants to the reading of Plaintiff's Exhibit No. 5 for identification, as follows:

MR. RAY: At this time we offer to continue reading from the minutes of the village of Mullan, plaintiff's Exhibit 5 for identification, the names of the trustees present at each regular session after December, 1928, up to and including November, 1929.

THE COURT: Showing the names of the members of the board that were present at the several meetings.

MR. RAY: I beg your pardon, sir.

THE COURT: Showing the names of the mem-

bers of the board that were present at the several meetings.

MR. RAY: And the officers of the village?

THE COURT: Yes.

MR. POTTS: We object to that as immaterial and incompetent.

MR. NUZUM: We all have that objection.

THE COURT: The objection is overruled.

THE COURT: I understand there is no objection to the manner of it.

MR. NUZUM: Oh, no, not to the method, your Honor.

36. The court erred in overruling defendants objections to the question propounded to the witness Martin, as follows:

Q. With respect to the minutes of the Board of February 4th, 1924, in making reference to Ordinance No. 106, being the ordinance providing for the assessment for licensing of every line of business conducted within the city limits, what, if anything, have you to say as to the No. 106 referring to the occupational ordinance?

MR. NUZUM: That was introduced in the record, ordinance No. 106. It was voted upon and passed upon. It is the record of a public official. I object to it on that ground in the first place, and in the second place I object to the question as incompetent.

THE COURT: Will you read the question, Mr. Hamilton?

(Question read by reporter.)

THE COURT: Overruled. The number appearing there was by error, either upon the part of Mr. Gyde, or myself. I wouldn't undertake to fix the responsibility for numbering it 106 instead of 105 as it should be numbered.

37. The court erred in overruling the objection of defendants to the testimony of the witness Martin, as follows:

Q. No. 106 refers to ordinance No. 105.

MR. NUZUM: That would be a conclusion of the witness.

THE COURT: Overruled.

A. Yes.

38. The court erred in overruling the objections of defendants to the testimony of the witness Gyde on the ground of his incompetency, as follows:

MR. POTTS: Just a moment, please. To that question and the evidence expected to be elicited the defendant A. J. Harwood objects, he being the only one of these defendants who was either a member of the council or an officer of Mullan or a defendant in this case who was present at that time or had any business relations with this witness, on the ground that such evidence is privileged, that the relation of attorney and client existed; that it was a confidential communication, advice given to an attorney by a client, and under the rules of law prevailing in the territory of Idaho at and immediately preceding the admission into statehood the witness is not a competent witness to testify to such matters. And on behalf of the defendants, Charles Ris-

tau, Henry Foss, John Wheatley, George Huston, F. O. Welch and Hartford Morphy, I object on the ground that it is hearsay and occurred long prior to their connection in any way with the village government; that it is not shown that it was ever transmitted to them, and that they are not bound by it, and that it would be prejudicial, and that it purports to have been given prior to the time fixed in this indictment as the alleged conspiracy.

THE COURT: Well, my recollection of the rule with respect to privilege arising out of the relationship of attorney and client is that it is a rule which rests essentially in the confidence which the relationship is calculated to inspire, and it is not just a mere arbitrary *ipsi dixit*. Where the City of Mullan or the Village of Mullan has a corporation counsel, he is not the attorney for every member of the board individually. He is the counsel for the city, and his advice in that capacity to the board in their official capacity in any matter for the city would be confidential, but to invoke the privilege as to these men merely as men it seems to me would be carrying the doctrine of privilege further than any case of carrying to which my attention has been drawn. If counsel has any authority to the effect that one who is acting in the capacity of corporation counsel occupies the relationship with each individual member of the council and that his lips are closed not only as to confidential matters concerning the city, but as to the affairs of every individual member constituting it, I will be able to rule with you.

MR. POTTS: I have no case, but I may say further, after careful examination of the authorities I have found no case that announced an exception to the rule where there is that confidential relation existing between a public official and an attorney for that public official. No exception has ever been made by any adjudicated cases that I can find, and I see no reason why the principle does not apply with equal strength. There is just as much reason why a member of the village trustees should be able to consult and communicate with the attorney that has been employed by that board of trustees, feeling free to make his communications, knowing that they will be held inviolate.

THE COURT: The trouble about it is that the relation of attorney and client did not exist between this witness and the members of the board. The relation of attorney and client existed between the witness and the Village of Mullan.

MR. POTTS: May I ask this witness a question, if your Honor please.

THE COURT: Yes sir.

MR. POTTS: Q. Who employed you as attorney while you were acting in the capacity you have described?

A. I would have to go back a long way to explain that, I think. Originally, I was employed in I think 1915.

MR. POTTS: Q. But at this time you were employed by the trustees, the board of trustees of the Village of Mullan.

A. Well, each time the board was reorganized somebody would make a motion that I be retained as Village attorney.

THE COURT: As village attorney?

A. As village attorney, and the motion was carried.

MR. POTTS: Q. Whom did you represent; whom did you act for; whom did you consult with?

A. Well, the individuals I would consult with. I took my orders from the board of trustees.

MR. POTTS: Q. And the board of trustees conferred with you for counsel and advice, did they not?

A. Yes sir.

MR. POTTS: Q. Under that employment?

A. Yes sir.

MR. POTTS: Q. And you were paid a yearly salary?

A. Monthly. I was paid a monthly salary and I drew it quarterly.

MR. POTTS: Q. As an attorney at law?

A. Yes sir.

MR. POTTS: Q. And you were at that time a duly licensed attorney at law under the laws of the State of Idaho?

A. Yes sir.

THE COURT: If this were an action against the City of Mullan and anything was sought to be disclosed as to the character of this witness' advice to the City in their representative capacity for the purpose of exposing the business of the city or fixing the responsibility of the city, I would have no hesitancy in saying

that the relation of attorney and client existed and that his advice to his client could not be disclosed, but where he was never at any time the attorney for these individuals, where the relation of attorney and client never existed between this man and any member of the board, I cannot see how there can be any confidence within the rules, and the objection is overruled.

39. The court erred in overruling the objections of defendants to the testimony of the witness Hull, as follows:

MR. POTTS: I wish to make an objection, your Honor, and it is necessary for me to lay the foundation. May I interrogate the witness?

THE COURT: Yes.

MR. POTTS: Q. At this time you were an attorney regularly employed by the village trustees of the town of Mullan, were you not, Mr. Hull?

A. Yes.

Q. And at the time this conversation occurred at your house these three members of the board of trustees had come to consult with you as their attorney with reference to the business of the village?

A. Yes.

Q. And the communications made by them to you and the advice given by you thereon related to the business of the village trustees?

A. It did.

MR. POTTS: On behalf of the defendants John Wheatley, Henry Foss and A. J. Harwood or what other member may have been present, the witness not

being certain; I object on the ground that the evidence is privileged; that it is confidential communications made by clients to their attorney and advice given thereon, and that the witness is made incompetent as a witness under the rules of law and evidence existing in the State of Idaho at the time it was admitted to the Union to testify to such matters, and that the rule of law in the 9th circuit is that the Federal Courts are bound by such rules. I object on behalf of the defendants, Charles Ristau, George Huston, F. O. Welch and Harford Morphy on the grounds that the evidence is hearsay, incompetent, irrelevant and immaterial and not binding on them.

MR. WERNETTE: We object on behalf of my defendants on the ground that the evidence sought to be elicited is hearsay, incompetent, irrelevant and immaterial.

MR. BANDELIN: And the same objection that Mr. Wernette made as to the clients that I represent.

THE COURT: And the objections will be overruled.

40. The court erred in overruling the objections of the defendants to the testimony of the witness Johnson, as follows:

Q. Did you have occasion to make a search of any place operated by Fond during the year 1929?

A. I did.

MR. NUZUM: It is the contention of the defendants Weniger and Bloom that none of the testimony of these witnesses in regard to searches or investigations.

or the results of searches, is admissible as against them. I don't want to be interrupting. May it be understood that that goes as to any defendant, on trial?

THE COURT: I do not want to broaden out the ruling too much, Mr. Nuzum. The objection to this question will be overruled .

41. The court erred in overruling the objection of defendant to the testimony of the witness Johnson as follows:

Q. Are you acquainted with Blacky Coughlin?

A. I am.

Q. And one of the defendants here, if you know?

A. Yes.

Q. Have you had occasion to make a search of any place operated by him?

A. Yes.

Q. When was that search made?

MR. NUZUM: Objected to as incompetent, irrelevant and immaterial, on behalf of defendants Weniger and Bloom.

THE COURT: Overruled.

42. The court erred in overruling the objections of defendants to the testimony of the witness Johnson as follows:

Q. Did you have occasion to search any place operated by the defendant Mike Kennedy?

A. I did?

Q. Did you have occasion to make a search there in the year 1929?

A. I did.

Q. Who was with you?

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial, on behalf of the defendants Weniger and Bloom.

THE COURT: Overruled.

43. The court erred in overruling the objections of defendants to the testimony of the witness Johnson, as follows:

Q. Did you have occasion to search the Rockford bar during this year?

A. Yes.

Q. Who if anyone did you find at the Rockford bar at that time?

A. Waino Pikkerainen.

Q. Who was with you at the time of the search?

A. Webb.

Q. Do you remember the date—the approximate date of it?

A. February—I wouldn't be positive—1929.

Q. What if anything did you find at the Rockford bar?

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial on behalf of the defendants Weniger and Bloom.

THE COURT: Overruled.

44. The court erred in overruling the objections of defendants to the testimony of the witness Johnson, as follows:

Q. Who did you find at the Miners' Club at that time?

A. John Thompson.

Q. One of the defendants here?

A. Yes.

Q. Who was with you at that time?

A. Webb.

Q. What did you find on that occasion?

A. Myself and Webb walked into the place, walked through the swinging doors, and there was one man at the bar drinking beer. I says to Thompson, "Give us a bottle of beer." Thompson went—

MR. NUZUM: I want to interpose the same objection, incompetent, irrelevant and immaterial, on behalf of Weniger and Bloom.

THE COURT: Overruled.

45. The court erred in overruling the objections of defendants to the testimony of the witness Johnson, as follows:

Q. Did you during 1927 have occasion to search any place operated by the defendant Walter Johnson here?

A. I did.

Q. What place was that?

A. The Mullan Rooming House, June 22nd, 1927.

Q. And who was with you, if anyone, on that occasion?

A. Webb and Heffer.

Q. What did you find?

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial, on behalf of the defendants Weniger and Bloom.

THE COURT: Overruled.

46. The court erred in overruling the objection of defendants to the testimony of the witness Johnson, as follows:

Q. What was the date of that search?

MR. BANDELIN: Just a moment. Leo Aro is not on trial. He has never been apprehended.

MR. LANGOISE: Our position is just this with respect to this, the Hunter hotel is one of the places paying \$25.00 a month to the city. The question is whether or not this evidence is admissible as showing the occupation of these places.

THE COURT: Overruled.

MR. NUZUM: The same objection on behalf of defendants Weniger and Bloom.

THE COURT: Overruled.

47. The court erred in overruling the objection of defendants to the testimony of the witness Johnson, as follows:

Q. I will ask you if you had occasion to search the Miners' Club during the year 1927?

A. I did.

Q. Do you remember the date of that, the approximate date?

A. No, I can't recall the date.

Q. Do you have anything from which you can refresh your recollection with respect to the date of that?

A. I have.

Q. What?

A. These reports.

Q. Made with respect to that search?

A. Yes.

Q. I will ask you to turn to that. (Witness does so.)

Q. Are you now able to say the date of that search?

A. Yes.

Q. You have recalled it?

A. Yes.

Q. What is the date?

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial on behalf of Weniger and Bloom.

THE COURT: Overruled.

48. The court erred in overruling the objection of defendants to the testimony of the witness Johnson, as follows:

Q. Did you have occasion to search the Hunter hotel bar during the fall of this year, 1929?

A. I did.

Q. Who was with you on that search?

A. Webb.

Q. Do you remember that date?

A. No, I don't.

Q. What did you find there, if anything?

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial, on behalf of Weniger and Bloom.

MR. LANGROISE. The Hunter hotel.

THE COURT: Overruled.

49. The court erred in denying the motion to strike

the testimony of the witness McGill, said motion being as follows:

MR. NUZUM: On examination of Mr. McGill the other day, I think I must have boddred or something—at least it escaped my attention. The question was asked which I think shouldn't have been permitted to go without objection. It reads this way from the transcript:

“Question: Heretofore have you had occasion to tell your story in substance to Mr. Wernette and Mr. Bandelin, counsel for the defendants here?”

“Answer: Yes, they are both friends of mine.

“Question: That was some time ago, or recently?”

“Answer: Sir?”

“Question: That was some time ago?”

“Answer: That was before—even before the Grand Jury.”

I move to strike that as incompetent, irrelevant and immaterial. I do not think, your Honor, it is proper for witnesses testifying by showing that he told the attorneys for some of the defendants that story.

THE COURT: It comes too late. We can't, several days after a witness has been on the stand, pass upon his testimony in the absence of the sitting at the time it occurred, and the conditions as they existed at the time. The motion will be denied.

50. The court erred in overruling the objection to the testimony of the witness Johnson, as follows:

Q: I will ask you whether or not you asked him for any help.

MR. NUZUM: I object as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

51. The court erred in overruling the objection of the defendant to the testimony of the witness Johnson, as follows:

MR. LANGROISE: Q. Just give us the conversation at the time that you first talked to him.

MR. NUZUM: I object as incompetent, irrelevant and immaterial on behalf of Weniger and Bloom.

THE COURT: Overruled.

MR. NUZUM: Exception.

52. The court erred in overruling the objection of the defendant to the testimony of the witness Johnson, as follows:

Q. Now, has Sheriff Weniger at any time from that time on given any assistance in the apprehension or the gathering of evidence against violators of the liquor laws in Shoshone County to you?

MR. NUZUM: I object as incompetent, irrelevant and immaterial.

THE COURT: You mean given this witness?

MR. LANGROISE: This witness, yes.

THE COURT: Overruled.

MR. NUZUM: Exception.

53. The court erred in overruling the objection of defendants to the testimony of the witness Johnson, as follows:

Q. During the time you were making any raids,

what occurred with respect to anything you did?

MR. NUZUM: I object to that. I think that is too general.

THE COURT: I think not. He is trying not to make it leading, and has directed the witnesses' attention to what he has in mind.

A. I have had the phone ring several times in different places and tell us to get out of there. that the Federals were coming.

54. The court erred in overruling the objections of defendants to the testimony of the witness Webb, as follows:

Q. What places did you search at that time?

A. We searched the Herman Arbliss place, the Mullan Inn, 220 Hunter Avenue, the McKinney place, known as the Coffee Shop, and the Mona McDonald place.

Q. Who was with you?

A. Mr. Johnson, Mr. Foster and Mr. Barron.

Q. What did you find if anything, at the Mullan Inn?

MR. NUZUM: On behalf of defendants Weniger and Bloom I object as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

55. The court erred in overruling the objections of defendants to the testimony of the witness Webb, as follows:

A. We found in the neighborhood of 50 bottles of beer, a number of jugs containing a small amount of

moonshine whiskey, funnel, liquor glasses, and so forth.

Q. Now what, if any thing, was found at the Mona McDonald place?

MR. BANDELIN: He has already gone into that, and it is repetition.

THE COURT: Overruled.

MR. NUZUM: Weniger and Bloom make the same objection, incompetent, irrelevant and immaterial.

THE COURT: Overruled.

56. The court erred in overruling the objections of defendants to the testimony of the witness Webb, as follows:

Q. Did you at that time talk with him, or did he talk with you about any help to be given in the enforcement of the liquor laws in that county?

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

57. The court erred in overruling the objections of defendants to the testimony of the witness Webb, as follows:

A. We did have a conversation along that line.

Q. Give that to the Court and Jury as best you can.

MR. NUZUM: Same objection.

THE COURT: Overruled.

58. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

Q. Where did you first go?

A. I went to Jack Chislm's place next door to the Banquet Cafe.

Q. Did you try to buy there?

MR. NUZUM: I object as incompetent, irrelevant and immaterial.

THE COURT: Objection overruled.

MR. NUZUM: Exception.

59. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

Q. Had you been in that place before?

A. I had.

Q. And had you been able to buy on every occasion before?

MR. NUZUM: Just a minute, I object as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

60. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

Q. Where did you go next?

A. To the Pastime.

Q. And what did you do there?

MR. NUZUM: I object as immaterial and incompetent.

THE COURT: Overruled.

61. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

A. I tried to buy a drink.

MR. LANGROISE: Q. Whom did you try to buy it from?

A. Nick Pavelich.

Q. What happened?

MR. NUZUM: I object as incompetent and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

62. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

A. I went in there and said, "Give me a drink."—

THE COURT: No, not the details. With what result, was the question?

A. I could not buy.

MR. LANGROISE: Q. Had you been buying in there prior to that time?

MR. NUZUM: The same objection.

THE COURT: Overruled.

63. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

A. I had.

MR. LANGROISE: Q. Had you been able to buy on other occasions that you had tried prior to this time?

MR. NUZUM: I object as immaterial and incompetent. The witness answers so quickly that I cannot get my objections in.

THE COURT: The objection will be overruled and the record may show that the objection was interposed timely.

64. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. You may answer. Were you able to buy on any other occasion that you had tried to buy there with the exception of the morning of the 15th after you had been to the sheriff's office?

MR. NUZUM: I object as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

65. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

A. I had.

MR. LANGROISE: Q. Where did you go next?

A. To the White Front.

Q. Did you try to buy there?

MR. NUZUM: The same objection.

THE COURT: Overruled.

66. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

A. Yes sir.

MR. LANGROISE: Q. Were you able to do so?

MR. NUZUM: The same objection.

THE COURT: Overruled.

67. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

A. Yes sir.

MR. LANGROISE: Q. Were you able to do so?

MR. NUZUM: The same objection.

THE COURT: Overruled.

68. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

A. No.

MR. LANGROISE: Q. Had you bought there before?

MR. NUZUM: The same objection.

THE COURT: Overruled.

69. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you been able to buy there on every occasion that you had been there before until the morning of the 15th after you had been to the Sheriff's office?

MR. NUZUM: The same objection.

THE COURT: Overruled.

70. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Where did you next go?

A. To the rooming house upstairs at the Wallace Corner, the pool room over the Wallace Corner.

Q. Were you able to buy there?

MR. NUZUM: The same objection.

THE COURT: Overruled.

71. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you been able to buy there before?

MR. NUZUM: The same objection.

THE COURT: Overruled.

72. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you been able to buy there on every occasion prior to that that you had tried?

MR. NUZUM: The same objection.

THE COURT: Overruled.

73. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Where did you next go?

A. To the St. Francis Hotel.

Q. And did you try to buy there?

MR. NUZUM: The same objection.

THE COURT: Overruled.

74. The court erred in overruling the objections of

defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Were you able to buy?

MR. NUZUM: The same objection.

THE COURT: Overruled.

75. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you bought there before?

MR. NUZUM: The same objection.

THE COURT: Overruled.

76. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you been able to buy there on every other occasion that you had tried to buy with the exception of this occasion on the 15th after you had been taken to Mr. Weniger's office by Mr. Weniger?

MR. NUZUM: The same objection.

THE COURT: Overruled.

77. The court erred in denying the motion of defendants to strike the testimony of the witness Cooper, as follows:

Q. And when you got to Mullan, where did you go?

A. I went to 111 Second Street known as the Rockford and tried to buy a drink.

MR. NUZUM: Just a moment. He asked him where he went. I move to strike the answer.

THE COURT: Motion denied.

78. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

Q. Were you able to buy a drink there?

MR. NUZUM: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

79. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you bought drinks there before?

MR. NUZUM: The same objection.

THE COURT: Overruled.

80. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you been able on every other occasion that you had tried to buy there prior to the time that you had been taken to Mr. Weniger's office by Mr. Weniger on the morning of the 15th, been able to buy there?

MR. NUZUM: The same objection.

THE COURT: Overruled.

81. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Where did you next go Mr. Cooper?

A. To the Miners' Club.

Q. And whom did you see there, if you recall now?

A. I don't recall the man.

Q. Did you try to buy there?

MR. NUZUM: The same objection.

THE COURT: Overruled.

82. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Were you able to buy?

MR. NUZUM: The same objection.

THE COURT: Overruled.

83. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you made purchases there before?

MR. NUZUM: The same objection.

THE COURT: Overruled.

84. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you ever before been refused liquor there when you had tried to buy except this time after you had been taken to Mr. Weniger's office on June 15, 1929?

MR. NUZUM: Just a moment. He says, "Had you ever before been refused except this time. Now, I don't think that question is very intelligible. I object to it as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

85. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

Q. Did you go to any other place in Mullan on that morning on that day?

A. I went to the Miners' Club and then to Mike Kennedy's Place.

Q. Did you try to buy at the Miners' Club?

MR. NUZUM: The same objection.

THE COURT: Overruled.

86. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Were you able to buy?

MR. NUZUM: The same objection.

THE COURT: Overruled.

87. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. And how you bought there before?

MR. NUZUM: The same objection.

THE COURT: Overruled.

88. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. And had you ever been refused prior to that day when you had tried to buy there?

MR. NUZUM: The same objection.

THE COURT: Overruled.

A. No.

89. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Then where did you go after the Miners' Club?

A. To Mike Kennedy's popcorn stand.

Q. Did you try to buy there?

MR. NUZUM: The same objection.

THE COURT: Overruled.

A. Yes.

90. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Were you able to buy?

MR. NUZUM: The same objection.

THE COURT: Overruled.

A. No.

91. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you bought there before?

MR. NUZUM: The same objection.

THE COURT: Overruled.

A. Yes sir.

92. The court erred in overruling the objections of

defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. Had you ever been turned down or refused liquor there prior to the time—

THE COURT: Prior to the time that he was refused?

MR. LANGROISE: Q. Prior to the time that you were refused?

MR. NUZUM: The same objection.

THE COURT: Overruled.

A. No, I was never turned down.

93. The court erred in overruling the objections of defendants to the testimony of the witness Cooper, as follows:

MR. LANGROISE: Q. And the drinks that you have referred to in your testimony were of intoxicating liquors, were they?

MR. NUZUM: The same objection.

THE COURT: Overruled.

A. Yes sir.

94. The court erred in sustaining the objections to the testimony of the witness Cooper, as follows:

Q. Then what occurred to make you think of the 13th that you had been uncovered?

MR. LANGROISE: I object to that as a repetition, if your Honor please.

THE COURT: Objection is sustained.

MR. NUZUM: Exception.

95. The court erred in sustaining the objections to the question asked the witness Cooper, as follows:

Q. Mr. Witness, did you not answer me when I asked you the time that he trailed you to make the first buy that it was about nine o'clock?

MR. LANGROISE: I object to the repetition.

THE COURT: The objection is sustained.

MR. NUZUM: Exception.

96. The court erred in overruling the motion of the defendant R. E. Weniger to dismiss the case, as follows:

MR. NUZUM: * * * As to the defendant R. E. Weniger, I move the Court to dismiss the case, because there is no evidence in the case tending to connect R. E. Weniger with the alleged conspiracy as charged in the indictment. Secondly, no evidence in the case which in any way tends to show that the defendant R. E. Weniger in any manner violated any of the provisions of the National Prohibition Act. Thirdly, that if the evidence showed anything, it shows mere passiveness on his part in respect to the National Prohibition Act and nothing of an active character in that respect.

THE COURT: There is no use for counsel to argue that motion, and it is denied.

MR. NUZUM: Exception.

97. The court erred in overruling the motion of the defendant Charles Bloom to dismiss the case, as follows:

MR. NUZUM: * * * I make the same motion with respect to the defendant Charles Bloom.

THE COURT: And that motion is denied.

MR. NUZUM: Exception.

98. The court erred in denying the motion to dismiss on the part of the defendants Weniger and Bloom, which was renewed after further testimony had been offered, as follows:

MR. NUZUM: May the motions be considered renewed?

THE COURT: Yes, sir, the motions may be considered renewed and denied.

99. The court erred in denying the motion of the defendants Weniger and Bloom to compel the government to elect which of the two conspiracies charged in the indictment it would proceed on, said motion being as follows:

MR. NUZUM: All right. I desire at this time, if your Honor please, to move that the Government be compelled to elect which of the two conspiracies charged in the indictment they will proceed on. There is first a charge in the indictment, or in one count, to violate Section three of Section 25, and Section 26 of title two of the Act of Congress of the United States National Prohibition Act, and in the same count a conspiracy charged to violate section 1 of title 2 of the Act of Congress known as the National Prohibition Act. I believe, while it is permissible to charge those in separate counts, that it is not under the law permissible to charge two conspiracies in one count, and Mr. Bishop lays down the rule that the proper time to make that objection and motion is prior to the opening of the defense and therefore, if your Honor please, I move for that election.

THE COURT: The motion to elect will be denied.

MR. NUZUM: Exception.

100. The court erred in sustaining the objections to the testimony of the defendant R. E. Weniger, as follows:

Q. Was there any ruling of the Supreme Court that handicapped you in 1927?

A. There was.

MR. RAY: Just a moment, if your Honor please, we object to both the form of the question and —

THE COURT: Objection is sustained.

101. The court erred in overruling the objections to the cross examination of R. E. Weniger, as follows:

Q. And I will ask you if there were more than twenty arrests made for violation of the prohibition laws in 1925, where there was a prosecution?

MR. NUZUM: That is immaterial whether there was a prosecution or not. His office doesn't conduct the prosecutions.

THE COURT: Overruled.

102. The court erred in overruling the objections to the cross examination of the defendant R. E. Weniger, as follows:

Q. During the years 1925, 1926, 1927 and 1928 did you or any of your deputies arrest any of the defendants in this case for violation of the Prohibition Laws?

MR. NUZUM: I object to that as irrelevant and immaterial.

THE COURT: Overruled.

103. The court erred in sustaining the objections to the question to R. E. Weniger, as follows:

MR. NUZUM: Q. Mr. Weniger, they have asked you something about your finances. How many Federal agents have come and Government agents, and searched over your books and gone into your affairs within the last four or five months?

MR. LANGROISE: I object to that, if your Honor please, for the reason he can show his finances, but whether anyone inspected them is immaterial.

THE COURT: Objection sustained.

MR. NUZUM: Exception.

104. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

A. At one time I see them play cards there.

Q. What were they playing?

A. Well, that I don't know.

MR. NUZUM: Wait a minute, Bloom. I object as incompetent, irrelevant and immaterial as to any card playing in the Bilberg.

THE COURT: Objection is overruled.

MR. NUZUM: Exception.

105. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

Q. You did not pay any attention?

A. I never stopped long enough to find out what they were playing.

Q. You did not want to know, did you?

MR. NUZUM: Just a moment, I object. Your Honor please, as improper cross examination.

THE COURT: The objection is overruled.

MR. NUZUM: Exception.

106. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

MR. LANGROISE: Q. Weren't you interested as an officer of the law?

MR. NUZUM: I object as immaterial and incompetent.

THE COURT: Overruled.

107. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

MR. LANGROISE: Q. You had taken an oath to enforce the laws of this county, had you not?

A. Yes sir.

Q. And there is a law against gambling, isn't there?

MR. NUZUM: I object as incompetent and immaterial, anything about gambling.

THE COURT: The objection is overruled.

MR. NUZUM: Exception.

108. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

A. Well, I don't know whether it was gambling or not.

MR. LANGROISE: Q. You did not try to find out either, did you, Mr. Bloom?

MR. NUZUM: I object as incompetent and immaterial.

THE COURT: The objection is overruled.

109. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

A. I seen the cards and the chips on the table and they were playing.

MR. LANGROISE: Q. And you did not try to find out, did you, what they were playing?

MR. NUZUM: The same objection.

THE COURT: Overruled.

110. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

A. I don't know that I did.

MR. LANGROISE: Q. You had never heard any reports that they were gambling at the Bilberg, did you?

MR. NUZUM: I object as incompetent and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

111. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

Q. And you never heard any rumor that they were gambling at the Bilberg?

MR. NUZUM: I object as incompetent and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

112. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

A. Well, I heard they were playing cards, that is all.

MR. LANGROISE: Q. Didn't you ever hear they were gambling?

MR. NUZUM: It is already answered.

MR. LANGROISE: I submit it is not answered.

THE COURT: Overruled.

MR. NUZUM: Exception.

113. The court erred in overruling the objection to the cross examination of the defendant Bloom as follows:

Q. What did you hear about it?

MR. NUZUM: I object as immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

114. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

Q. And you knew of the Government picking Herbert Anderson up at the Bilberg in 1927, didn't you?

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial.

THE COURT: The objection is overruled.

115. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

Q. Did you ever make any investigation at the Bil-

berg after you knew of them taking Herbert Anderson out of there for a liquor violation?

MR. NUZUM: Just a moment. I object as incompetent, irrelevant and immaterial, and assuming a state of facts not in evidence.

THE COURT: Overruled.

MR. NUZUM: Exception.

115. The court erred in overruling the objection to the cross examination of the defendant Bloom, as follows:

A. No, I did not.

MR. LANGROISE: Q. Why didn't you?

MR. NUZUM: I object as immaterial.

THE COURT: Objection is overruled.

116. The court erred in denying the request of defendants' counsel to have the prosecutor state what prohibition law he was examining the witness Bloom about, as follows:

MR. LANGROISE: Q. Did you ever have any orders from the Sheriff's office with respect to the enforcement of the prohibition laws?

A. I did.

Q. And were they that you were not to pick them up?

A. No.

MR. NUZUM: Just a moment.

MR. LANGROISE: Q. What were they?

MR. NUZUM: I would like to have what he means by the prohibition laws defined, whether it is the State law or the National law.

THE COURT: Objection is overruled.

MR. NUZUM: Exception.

117. The court erred in overruling the objection of defendants to the cross examination of defendant Bloom, as follows:

MR. LANGROISE: Q. Did he ever tell you that you were to investigate to see whether or not the law was being violated?

MR. NUZUM: I object as immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

118. The court erred in overruling the objection of defendants to the cross examination of defendant Bloom, as follows:

MR. LANGROISE: Q. Did you ever make any investigation of the Bilberg Hotel Bar during any of these years, that is, 1925, 1926, 1927, 1928 and 1929 to see whether or not the prohibition laws were being violated in that place?

MR. NUZUM: I object as incompetent, immaterial, and request that the witness be given the information as to what prohibition laws he refers to.

THE COURT: Overruled.

MR. NUZUM: Exception.

119. The court erred in overruling the objection of defendants to the cross examination of the defendant Bloom, as follows:

Q. Well, did you ever make any investigation of any kind?

MR. NUZUM: The same objection.

THE COURT: Overruled.

MR. NUZUM: Exception.

120. The court erred in overruling the objection of defendants to the cross examination of the defendant Bloom, as follows:

Q. None in Mullan knew anything about them selling whiskey there that you inquired of?

MR. NUZUM: Just a moment. That is not a fair question.

THE COURT: Overruled.

121. The court erred in overruling the objection of defendants to the cross examination of the defendant Bloom, as follows:

Q. You did not care whether or not they were violating the law?

A. Oh, yes, I did, too, care.

Q. Well, weren't you interested?

A. Yes.

Q. Then, why didn't you try to find out?

MR. NUZUM: I object as incompetent and immaterial. A man don't have to go in and take an inventory of what is in those places.

THE COURT: Overruled.

MR. NUZUM: Exception.

122. The court erred in overruling the objection of defendants to the cross examination of the defendant Bloom, as follows:

Q. Did you ever watch the place?

A. What do you mean, watch?

Q. From across the street or staying around there?

MR. NUZUM: Wait a minute. That is a double question.

THE COURT: Overruled.

MR. NUZUM: Exception.

123. The court erred in overruling the objection to the testimony of the witness Bloom, as follows:

Q. Were you ever in the Mullan Pool Hall after that?

A. I do not believe I was.

Q. Why didn't you?

MR. NUZUM: I object to that as immaterial and irrelevant.

THE COURT: Overruled.

124. The court erred in overruling the objection to the testimony of the witness Bloom, as follows:

Q. Weren't you interested in enforcing the laws?

A. I was.

MR. NUZUM: Just a moment. I object to that, there is no showing that after Speck was taken out, the law was being violated at any specific time.

THE COURT: He is asking whether he investigated to find out whether it was or not.

MR. NUZUM: He said "No", and then the question was asked whether he wasn't interested in enforcing the law.

THE COURT: Proceed.

125. The court erred in overruling the objection to the testimony of the witness Bloom, as follows:

Q. You never heard of any gambling going on up in the Central hotel bar?

A. No, sir.

MR. NUZUM: I object to that as immaterial and irrelevant.

THE COURT: Overruled.

126. The court erred in overruling the objection to the testimony of the witness Bloom, as follows:

Q. Did you ever make any inquiry as to whether or not there was any gambling going on?

MR. NUZUM: I object to that as immaterial, whether he made any inquiry or not.

THE COURT: Overruled.

127. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

Q. During the time that Rantella was there, did you ever make inquiries to find out whether or not the laws of the State of Idaho were being violated, or of the United States?

MR. NUZUM: I object, because a violation of the laws of the United States is immaterial.

THE COURT: Overruled.

MR. NUZUM: Note an exception.

128. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

Q. And handled the same line of stuff that the Mullan Inn did, and other places were handling, did they?

MR. NUZUM: That is argumentative.

THE COURT: Read the question, Mr. Reporter!

(Reporter reads question.)

THE COURT: Overruled.

129. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

Q. Did you make any investigation as to what kind of a place he was taken out of?

MR. NUZUM: I object to that as immaterial and irrelevant.

THE COURT: Overruled.

130. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

Q: Did you ask them whether or not there was any gambling in there?

MR. NUZUM: I object to that as immaterial, whether or not there was any gambling.

THE COURT: Overruled.

131. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

A. I didn't.

Q. Were you interested in whether or not there was any gambling there?

A. I was.

MR. NUZUM: I object to that as immaterial.

THE COURT: Overruled.

132. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

Q. Why didn't you ask about it then?

MR. NUZUM: I object to that as immaterial.

THE COURT: Overruled.

133. The court erred in denying the request that the question as to whether or not they were running gambling and selling whisky be segregated, as follows:

Q. Did you ever have any reports that the Bolo was running gambling, and selling whisky?

MR. NUZUM: I object to that as immaterial, insofar as the gambling is concerned. I would request that the question would be segregated.

THE COURT: Overruled.

134. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

Q. Why didn't you make any investigation?

MR. NUZUM: I object to that as immaterial, with reference to gambling.

THE COURT: Overruled.

135. The court erred in overruling the objection of defendants to the testimony of the witness Bloom, as follows:

Q. You weren't interested as to whether or not they were gambling, or violating the law?

MR. NUZUM: I object to that as immaterial.

THE COURT: Overruled.

136. The court erred in overruling the objection of defendants to the cross examination of the witness Bloom, as follows:

Q. As a matter of fact, Mullan was a wide open town, wasn't it?

MR. NUZUM: I object to that as immaterial, and incompetent.

THE COURT: Overruled.

MR. NUZUM: Exception.

137. The court erred in overruling the objection of defendants to the cross examination of the witness Bloom, as follows:

Q. Just what did you do, during the time you were deputy sheriff, to apprehend any violators of the law, or stop violations of the law?

MR. NUZUM: I object to that as irrelevant, immaterial, and request that the question be limited to liquor.

THE COURT: Overruled.

138. The court erred in allowing the witness Sheridan to testify, the said witness Sheridan having been in the court room all of the time, and an order of exclusion having been made, excluding all witnesses before any testimony was had, as follows:

MR. LANGROISE: If your Honor please, during the course of the trial a certain matter came to our attention, and Mr. Sheridan has been in the courtroom since that time. We wish to call him for the purpose of impeaching Mr. Weniger with respect to certain things. He has been in here during all of the course of the trial.

MR. NUZUM: Your Honor, Mr. Sheridan was here when Weniger was asked the question. If you had

excused him then, you might have gotten away from the order of exclusion of witnesses, but you kept him in here all the time Weniger was examined.

THE COURT: The objection is overruled.

139. The court erred in overruling the objections to the testimony of the witness Sheridan, as follows:

Q. I will ask you, Mr. Sheridan, if during the afternoon recess in the corridors—

MR. NUZUM: Now, if your Honor please, I object to this, to the putting of the impeachment question, for this reason, that your Honor has in mind what it was; that that, if anything, was a part of the case in chief, and he cannot withhold any of his case in chief and then put it by way of impeachment make it competent as rebuttal.

THE COURT: Objection is overruled.

140. The court erred in overruling the objections to the testimony of the witness Sheridan, as follows:

Q. And did he at the same time and during the same conversation, with the same parties present, state in substance: "For the last year Shoshone County has been overrun with undercover agents of the dry forces until it is now impossible for a stranger to enter the boundaries of the county without being placed under suspicion?"

MR. NUZUM: The same objection, if Your Honor please.

THE COURT: Overruled.

141. The court erred in overruling the objections to the testimony of the witness Sheridan, as follows:

A. Yes sir.

MR. LANGROISE: Q. And if during the same conversation and during the same time and the same parties being present, if he did not state in substance and effect: "That during the period that I have served as Sheriff of Shoshone County, I have minded my own business, pursuing and catching law-breakers, and when complaints against bootleggers and liquor handlers were registered in my office arrests were made, but I did not send my men snooping into the personal affairs of the citizens of the community."

MR. NUZUM: Just a moment. The same objection.

THE COURT: Overruled.

142. The court erred in denying the offer in evidence of the Wallace Press Times, as follows:

MR. NUZUM: If your Honor please, I offer in evidence the Wallace Press Times which has been referred to.

MR. LANGROISE: To which we object for the reason that—

THE COURT: The objection is sustained.

MR. NUZUM: Exception.

143. The court erred in denying the motion of defendants Weniger and Bloom to strike all of the testimony of the witness Sheridan, as follows:

MR. NUZUM: The defendants, Weniger and Bloom and Anna Tornberg first move to strike all the testimony of the last witness, Mr. Sheridan, who was

on the stand, because he was in here and heard the testimony of the witness whom he was put on the stand to impeach, and kept in the room during that witness' testimony, in violation of the exclusion order which your Honor had made.

THE COURT: The motion is denied.

MR. NUZUM: Exception.

144. The court erred in denying the motion of defendants Weniger and Bloom to strike all of the testimony in the case with reference to gambling and prostitution, as follows.

MR. NUZUM: The defendants Weniger and Bloom move to strike all of the testimony in the case with reference to gambling and prostitution as not in any manner involving a violation of any laws of the United States or any Federal law of any kind, character or description, and therefore not the subject of a conspiracy to violate any of the laws of the United States.

THE COURT: The motion is denied.

MR. NUZUM: Exception.

145. The court erred in denying the motion of defendant Weniger to instruct a verdict of not guilty and discharge him, as follows:

MR. NUZUM: The defendant R. E. Weniger at this times moves the Court to instruct a verdict of not guilty and discharge him for the reason that the evidence in this case does not show any conspiracy on the part of the said Weniger or any acts on the part of the said Weniger which would tend to violate the National

Prohibition Law or any law of the United States. I would like to be heard, if your honor desires to hear me, on that question.

THE COURT: The motion will be denied.

MR. NUZUM: Exception.

146. The court erred in denying the motion of defendant Bloom to instruct a verdict of not guilty and discharge him, as follows:

MR. NUZUM: The defendant Charles Bloom moves that the Court instruct a verdict of not guilty and discharge him for the reason that the evidence in the case wholly fails to connect him in any manner with a conspiracy to violate the National Prohibition Law or any law of the United States or to do anything more than to show perhaps a knowledge of the violation of the State law in reference to gambling in some instance, nothing with reference to prostitution, and that therefore there is nothing to be submitted to the jury in so far as he is concerned.

THE COURT: Motion is denied.

MR. NUZUM: Exception.

147. The court erred in giving the following instruction:

A conspiracy, gentlemen of the jury, is a corrupt agreement or combination between two or more persons to commit an offense or offenses against the United States. This corrupt agreement or combination is the gist of the offense but the performance of one or more of the overt acts, charged in the indictment to effect the object of the conspiracy is necessary to make the offense

indictable and punishable under the statute.

By the expression "an act to effect the object of the conspiracy", commonly called an overt act, is meant an act done by one or more of the conspirators, subsequent to the formation of the corrupt agreement or combination and during its existence for the purpose of carrying such agreement or combination into effect. The mere corrupt agreement or combination alone is not sufficient to constitute an offense under this statute, but subsequent to the formation of said corrupt agreement or combination and during its existence one or more of the conspirators must have done or committed some additional act charged in the indictment aimed at the accomplishment of the unlawful purpose and tending to carry into effect the unlawful enterprise.

A charge of conspiracy is rarely susceptible of proof by direct testimony alone. It is well settled that the evidence in proof of conspiracy may be, and from the nature of the offense generally must be circumstantial. A concerted action to violate the law is usually secret and is ordinarily shown by separate, independent acts, each tending to support and establish a common design and purpose on the part of those adding or participating in such acts. This common design and purpose is the essence of the crime of conspiracy, but to establish it, it is not necessary to prove that the parties come together formally and actually agreed in terms to have that design or purpose or to pursue by concert of action or by common means. The jury will be justified in inferring the existence of a conspiracy if the government

satisfies you beyond a reasonable doubt by the testimony of credible witnesses that any two or more of the persons named in the indictment aimed by their acts to accomplish the same unlawful purpose or object, one performing one part thereof and the other or others another part of the same so as to complete it, the acts of each ever leading to the same unlawful result, although the parties so participating may never have met together to concert the means or to give effect to the unlawful design and purpose. Nor is it necessary that a conspiracy shall originate with the persons charged. Every one coming into a conspiracy at any stage of the proceedings with knowledge of its existence is regarded in law as a party to the conspiracy and as a party to all the acts done by any of the other parties to the conspiracy, either before or afterwards, in pursuance of the common design and purpose.

One charged with conspiracy with many others may be convicted on proof of his conspiring with any of such others without proof of conspiracy participated in by all of them. Mere knowledge, acquiescence or approval of the act without cooperation or agreement to cooperate is not enough to constitute one a party to a conspiracy. There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose. In other words, conspiracy implies concert of design and purpose, but it does not contemplate the participation by each conspirator in every detail of its execution, for the statute provides if a conspiracy is entered into to commit any offense against the United

States and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to the conspiracy is guilty. Participation in the design or purpose of the unlawful enterprise is the essential thing, but it is not necessary that each conspirator participate in the doing of every act committed in furtherance of such design and purpose.

148. The court erred in giving the following instruction:

In this connection I further instruct you that it is not necessary that the sole object of a conspiracy be to commit an offense against the United States. It is sufficient if one of the objects of the conspiracy is so to commit such an offense.

A conspiracy may have a number of objects, some of which may not involve the commission of an offense against the United States, but if one of the objects and purposes of the conspiracy is to commit an offense against the United States and overt acts are committed for the purpose of carrying the conspiracy into effect, that in law is sufficient. I charge you, however, that the only object to the claimed conspiracy in this case over which the United States and its courts have any jurisdiction is the one set forth in the indictment, namely, a conspiracy to commit violations of the National prohibition Act. A conspiracy with respect to gambling or prostitution, or any of the ordinary forms of municipal vice, if confined to such places, would not be a conspiracy to commit an offense against the United States, for the reason that the United States and its courts have

no jurisdiction with respect to gambling, prostitution and municipal vice.

The only object of the claimed conspiracy which you may take into account in arriving at your verdict in this case is the object alleged in the indictment, namely, that the parties conspired to violate the National Prohibition Act in the respects enumerated and set forth in the indictment.

The testimony in this case with respect to gambling and prostitution in the village of Mullan was admitted because it was so interwoven with the charge of violating the laws of the United States, namely, the prohibition laws, that it was competent for you to take it into consideration in connection with all the other facts and circumstances disclosed by the evidence in the case as a shedding light on the question of whether there was a conspiracy to violate the prohibition laws, if in your judgment such evidence has any such effect.

149. The court erred in giving the following instruction:

With respect to the defendants, **R. E. Weniger** and **Charles Bloom**, Sheriff and Deputy Sheriff respectively of Shoshone County, Idaho, and the defendants, **R. O. Welch** and **Hartcourt Morphy**, policeman of the village of Mullan, Idaho, I instruct you that these defendants are not on trial for the mere failure to enforce the prohibition laws, state or national, in the village of Mullan or in the county of Shoshone. These defendants are not accused of acts of omission but of commission, namely, that they entered into the conspiracy described

in the indictment to violate the prohibition laws of the United States in the particulars set forth in the indictment.

150. The court erred in giving the following instruction:

But, gentlemen of the jury, in this connection I instruct you that where individuals are the occupants of a public office or offices and whose duties in whole or in part require of them the enforcement of the liquor laws and the arrest of those engaged in such law violation, and it is made to appear that within the jurisdiction of such offices, such laws are openly, notoriously and continuously violated in such manner and under such circumstances that the jury is satisfied beyond all reasonable doubt that such peace officers in fact knew of such flagrant, open and continuous violations, if you find there were such, and that such officers did little or nothing to enforce the laws that were being violated by arresting those engaged in their violation. These are facts and circumstances which you have a right to take into consideration together with all the other facts and circumstances disclosed by the evidence in the case as shedding light on whether or not such peace officers, or any of them, actually joined the conspiracy charged in the indictment and aided and permitted its execution. In such circumstances you should inquire whether such acquiescence in such law violation, if you find there was such, was due to mere negligence, inefficiency, incompetency or inability to perform the public duties devolving upon such officer or officers, or was the conduct

passive and intentional with full knowledge of a conspiracy to bring about such violation and was passed with a view and for the purpose of protecting and aiding it. In other words, was the inaction or acquiescence, if any, due to a mere failure of duty, or was it a passive refraining from performing the duty with the knowledge of the violations for the purpose of aiding and assisting in the conspiracy to violate the laws which were being violated?

Mere lack of diligence in the performance of their duties on the part of public officers is not enough. There must in addition be proof of knowledge of facts showing an intention on the part of the officers in question to aid in the unlawful act by refraining purposely from doing that which they were by the duties of their office bound to do, with the intent and for the purpose of becoming a party to and aiding in the execution of a conspiracy to violate those laws. This you must determine by your verdict in the light of all facts and circumstances disclosed by the testimony in the case.

151. The court erred in refusing to give the following instruction:

I.

The first conspiracy charged in the indictment is that the defendants named did "conspire and agree together and with each other to commit certain offenses against the United States of America, and the laws thereof, to-wit, to possess, to transport, to sell and to manufacture intoxicating liquors containing more than one-

half of one per cent. of alcohol by volume, and fit for beverage purposes, to-wit, wine, beer and whiskey, in violation of Section 3, Section 25 and Section 26 of Title II of the Act of Congress of October 28th, 1919, commonly known as the National Prohibition Act." The court construes the language of the indictment to mean that such of them as may have entered into the conspiracy conspired to commit jointly by their own acts or the acts of their agents the offenses of possessing, transporting, selling or manufacturing the intoxicating liquors described in the indictment. Under the language of the indictment it is not enough that the defendants conspired to commit some other offense, however criminal it may have been. They must have conspired jointly by themselves or agents to possess, transport, sell and manufacture the intoxicating liquors, and unless you can find from the testimony beyond a reasonable doubt that they are guilty of conspiring jointly, by the acts of themselves or their agents, to possess, transport, sell or manufacture the intoxicating liquors described in the indictment, it is your duty to acquit them.

152. The court erred in refusing to give the following instruction.

II.

The second conspiracy charged is that the defendants conspired to maintain in the village of Mullan a large number of common nuisances, to-wit, rooms, houses, buildings, structures and places where intoxicating liquors containing more than one-half of one per cent.

of alcohol, by volume, and fit for beverage purposes, to-wit, beer, wine and whiskey were to be manufactured, sold, kept for sale, and bartered for beverage purposes. The charge is that the defendants conspired to themselves jointly maintain the common nuisances described in the indictment. You are not concerned with any other conspiracy, however criminal it may have been, and if you find that the conspiracy as charged in the sense that I have explained it is not sustained by evidence sufficient to satisfy you beyond a reasonable doubt of the guilt of the accused, it is your duty to acquit them, or such of them as you find not to have entered into the conspiracy.

153. The court erred in refusing to give the following instruction:

III.

The indictment alleges that Weniger and Bloom were members of the conspiracy charged. It is in proof that said persons are officers of the State of Idaho, to-wit, the sheriff of Shoshone County, Idaho and his deputies. If they actually entered into a conspiracy to maintain the nuisances charged, or to keep, possess, sell, transport or manufacture intoxicating liquors, then their official character does not render them immune from punishment for that offense. But the court charges you that their official character as state officers does not make them guilty, however remiss they may have been, if they were remiss, in failing to enforce the laws of the State of Idaho against the commission of nuisances or other

infractions of the state law. It is no part of their duty as officers of the state, under the laws of the United States, to make arrests without a proper warrant under the laws of the United States, for infractions of the prohibition law, or to otherwise endeavor to enforce such laws, and their mere failure to make such arrests, or to otherwise endeavor to enforce such laws, if that be the only evidence to connect them with the conspiracy charged, would not make them guilty under the indictment in this case, and they should be acquitted.

154. The court erred in refusing to give the following instruction:

IV.

In this case it is not shown by direct evidence that the conspiracy charged was actually entered into. The government relies on the proof of circumstances to show the conspiracy. Such circumstances must convince you beyond a reasonable doubt that there was in fact such a conspiracy. And if you find that such a conspiracy was entered into, you must then consider the testimony to determine, as to each individual defendant, whether he or she was a party to the conspiracy, and if you are not satisfied by proof beyond a reasonable doubt as to any one or more of the defendants, that they were parties to the conspiracy, it is your duty to acquit such defendant or defendants.

155. The court erred in refusing to give the following instruction:

V.

The court charges you that the mere presence of an accused at a place or places where overt acts were being committed in aid of the conspiracy, coupled with a refusal to interfere, or mere concealment of the crime, or a mere knowledge that the crime was being committed, or a mental approbation of what was being done while the will contributed nothing in the doing, would not be sufficient, without more, to justify you in finding that a particular defendant was a party to the conspiracy. Such acts on the part of a defendant would be circumstances to be considered in determining whether any particular defendant was a party to the conspiracy, but standing alone, they would not be sufficient evidence of guilt to justify a conviction.

156. The court erred in refusing to give the following instruction:

VI.

In connection with the testimony as to the activity or inactivity of Sheriff Weniger and his deputy, Bloom, as bearing on their guilt or innocence as conspirators, the court charges you that since March 26, 1927, it has been law of the State of Idaho that said officers have no authority to make searches in homes or other places in which intoxicating liquors might have been kept for sale without a search warrant issued on sworn evidence of a positive character. A search warrant issued on information and belief, or based on conclusions rather than facts, gives no authority for such a search. The court charges

you further, as bearing on the activity or inactivity of said defendants, that it is your duty to consider under the evidence whether the sheriff was furnished by the County Commissioners of Shoshone County with a sufficient force of deputies or with a fund to make possible on his part activity greater than the evidence shows to have been exerted by him in enforcing the prohibition laws of the state.

157. The court erred in refusing to give the following instruction:

VII.

The court charges you that the fact that many persons in a community or in a neighborhood are engaged in violating the law is not evidence of a conspiracy on their part to violate the law. There must have been a meeting of the minds of such persons in an agreement to so violate the law in which each person was to do something more than to himself violate the law. Any number of separate violations of the law, without such an agreement, does not constitute a conspiracy.

158. The court erred in refusing to give the following instruction:

VIII.

The court charges you that in order to constitute a conspiracy to violate the federal prohibition laws, there must have been "a serious and substantially continued group scheme for co-operative breaking of such laws." Such conspiracies are most difficult to try without pre-

judice to innocent defendants, and testimony should be carefully scanned by the jury in alleged conspiracy cases to determine whether the acts proven show simply individual action without concert, or whether it shows “a serious and substantially continued group scheme for co-operative law breaking.”

159. The court erred in refusing to give the following instruction:

1-A

There are two methods of proving the existence of a conspiracy—one by direct proof of the agreement which constitutes the conspiracy; the other by circumstances which may be sufficient to satisfy the jury that such conspiracy was actually entered into. These circumstances must convince you beyond a reasonable doubt that there was in fact such a conspiracy as is charged in the indictment. The evidence must also satisfy you beyond a reasonable doubt that the defendants Winegar and Bloom were parties to that conspiracy in order to justify you in finding that the latter were guilty. Juries are not permitted to convict persons of crime on speculation or probabilities. The evidence must satisfy them of guilt beyond a reasonable doubt.

160. The court erred in refusing to give the following instruction:

2-A

The parties are upon trial for conspiracy to possess, to transport, to sell and to manufacture intoxicating li-

quors, containing more than one-half of one per cent alcohol by volume fit for beverage purposes, to-wit, wine, beer and whiskey, in violation of Section 5, Section 25 and Section 26 of the Act of Congress of October 28th, 1919, in the Village of Mullan, County of Shoshone, State of Idaho, and to maintain in said Village of Mullan, State, County and District aforesaid, a large number of common nuisances, to-wit, rooms, houses, buildings, structures and places where intoxicating liquors containing more than one-half of one per cent. of alcohol by volume and fit for beverage purposes, to-wit, beer, wine and whiskey, were to be manufactured, sold, kept for sale and bartered for beverage purposes, in violation of Section 21, Title II. of the aforesaid act of Congress. You will first inquire whether such a conspiracy was in fact entered into by the defendants, or any two or more of them. The fact that infractions of the prohibition laws were general or public and notorious in the Village of Mullan is not sufficient standing alone, to show the conspiracy charged. A mere toleration of criminal acts, or a mental approbation of what is being done while the will contributed nothing to the doing, is not sufficient proof of conspiracy to do the criminal acts. There must be proof of an agreement to do the acts alleged by concerted action of the conspirators. If you find that such a conspiracy was entered into, you will next inquire whether the defendants Winegar and Bloom were parties to the conspiracy, and I again charge you that mere toleration on the part of said defendants, or even mental approbation on their part of what was being

done by others in the execution of such a conspiracy, while their will contributed nothing to the conspiracy, is not of sufficient standing alone to show they were parties to the conspiracy.

161. The court erred in refusing to give the following instruction:

3-A

The government affirms the formation and existence of a conspiracy to commit the particular offense charged against the United States, and that these defendants were each a party to such conspiracy. The burden is therefore upon the government to prove what it thus affirms by legal and competent evidence, in order to ask a verdict in its favor.

162. The court erred in refusing to give the following instruction:

4-A

Statements of some of the accused conspirators, in the absence of the defendants, and some of them on trial, and conversations with some of the witnesses on the part of persons accused as co-conspirators other than the defendants, made in the absence of the defendants, have been given in evidence. These statements were admitted to show the nature and purpose, the plan and operations, of the conspiracy, if one existed, and to aid in shedding light upon the relation of the persons so speaking to the transactions; but guilt cannot be fastened upon any person by the declarations or statements, oral

or written, by others. Guilt must originate within a man's own heart, and it must be established by his own acts, conduct, or admission. To establish the connection of any one of the defendants with the conspiracy, such connection must be shown by facts and circumstances, or by his own acts, conduct, or declarations, independent of the declarations of others, and, until this fact is thus established, he is not bound by the declarations or statements of others.

The principle of law and rule of evidence is that, when once a conspiracy or combination is established and the defendant's connection therewith is shown by independent evidence, then he is bound by the acts, declarations, and statements of his co-conspirators, because in that event he is deemed to assent to or command what is done by any other in furtherance of the common object. In this case, in determining whether any one of the defendants on trial was a party to the conspiracy, if you find a conspiracy was formed, you cannot consider the declarations and statements made by other persons to the various entrymen or others in the absence of such defendant, as such defendant is not bound by or affected by such statements and declarations of others, until it is shown by other competent evidence that he was a party to such unlawful conspiracy.

163. The court erred in refusing to give the following instruction:

5-A

In considering whether or not Winegar and Bloom

were parties to the conspiracy or agreement, if you find there was one, you are only to take into consideration their own statements, action, and conduct, and their own connection with the action and conduct of others, as shown by the evidence, independent of any statements or declarations by others; and unless you find from such evidence that they were parties to such conspiracy, if one existed, then it would be your duty to acquit them. If, however, you find they were parties to such conspiracy, then the statements and declarations of their co-conspirators may be considered as if made by them.

164. The court erred in refusing to give the following instruction:

I-B

In every criminal prosecution and in this prosecution the defendants and each of them are presumed to be innocent of the crime charged. This is not a mere idle presumption to be disregarded by you, but is a part of the law of the land. It attaches to the defendants and each of them at all stages of the case, goes with you into the jury room and remains with you and is binding upon your conscience until you can say on your oaths as jurors that said presumption has been removed by the evidence in the case, and you are satisfied from the evidence in the case of the guilt of the defendants beyond a reasonable doubt, and if said presumption is not so removed, and if you have a reasonable doubt as to the guilt of the defendants, or either of them, then it is your duty to resolve that doubt in their favor, and find the defendants not guilty.

165. The court erred in refusing to give the following instruction:

II-B

The accused are competent witnesses for themselves in this case under the laws of the United States. Their credibility may be affected by their interest in securing an acquittal, but aside from that fact, they stand on the same footing as any other witness in this case in the matter of credibility. Their manner and demeanor in testifying, their apparent prejudice or bias, their fairness and consistency in testifying, and their interest in testifying, are all factors proper to be considered in weighing the credibility of their testimony, to the same extent as the same factors are to be considered in weighing the testimony of any other witness. And after weighing the testimony of the accused in the manner stated you believe him to be more credible, better entitled to be believed than the witness or witnesses for the prosecution, then if the conflict in the testimony be as to a material matter in the case, you are entitled to believe the accused in preference to the prosecuting witnesses, and may find your verdict on such belief.

166. The court erred in refusing to give the following instruction:

III-B

The law presumes that persons charged with crime are innocent until they are proven by competent evidence to be guilty. To the benefit of this presumption

the defendants are all entitled, and this presumption stands as their sufficient protection unless it has been removed by evidence proving their guilt beyond a reasonable doubt.

167. The court erred in refusing to give the following instruction:

IV-B

Proof of good character is a species of testimony admissible as bearing on the guilt or innocence of one accused of crime, and it may, in connection with all the testimony in the case, be sufficient to raise a doubt in your minds of the guilt of the accused.

WHEREFORE the appellants pray that said judgment be reversed and that said District Court of the United States in and for the District of Idaho, Northern Division be ordered to enter a decree reversing the decision of the lower court in said cause.

TURNER, NUZUM & NUZUM,
605 Columbia Building, Spokane,
Washington.

H. E. RAY,
United States Attorney.

O. J. BANDELIN
Sandpoint, Idaho.
Attorneys for Appellants.

Copy received January 20, 1930.

(Title of Court and Cause)

PRAECIPE FOR TRANSCRIPT

Filed January 20, 1930

To W. D. McReynolds, Clerk of the above entitled court:

Please prepare and certify to the Circuit Court of Appeals of the Ninth Judicial Circuit, the following papers and records in the above cause:

1. Indictment.
2. Plea in Abatement of R. E. Weniger.
3. Plea in Abatement of Charles Bloom.
4. Order denying Plea in Abatement as to R. E. Weniger and Charles Bloom.
5. Judgment and Sentence of R. E. Weniger and Bloom.
6. Motion to extend time to file Bill of Exceptions.
7. Order extending time to file bill of exceptions.
8. Notice of Appeal of R. E. Weniger.
9. Notice of Appeal of Charles Bloom.
10. Petition for Order allowing appeal of R. E. Weniger.
11. Petition for Order allowing appeal of Charles Bloom.
12. Order allowing appeal of R. E. Weniger and fixing bond.
13. Order allowing appeal of Charles Bloom and fixing bond.

14. Order extending time to file Assignment of Errors as to R. E. Weniger.
15. Order extending time to file Assignment of Errors as to Charles Bloom.
16. Supersedeas Order as to R. E. Weniger.
17. Supersedeas Order as to Charles Bloom.
18. Petition for reversal as to R. E. Weniger.
19. Petition for reversal as to Charles Bloom.
20. Assignment of Errors.
21. Petition for appeal of R. E. Weniger.
22. Petition for appeal of Charles Bloom.
23. Order allowing appeal of R. E. Weniger, under date of January 16, 1930.
24. Order allowing appeal of Charles Bloom, under date of January 16, 1930.
25. Citation.
26. Praecipe.
27. Appeal Bond of R. E. Weniger.
28. Appeal Bond of Charles Bloom.
29. Journal entries showing full record of trial in case of United States of America v. R. E. Weniger and Charles Bloom.

TURNER, NUZUM & NUZUM
605 Columbia Building, Spokane
Washington.

O. J. BANDELIN,
Sandpoint, Idaho.

Attorneys for Defendants
Weniger and Bloom

Copy received Jan. 20, 1930

H. E. RAY,

United States Attorney

(Title of Court and Cause)

Filed February 5, 1930

IT IS ORDERED that the November Term of the District Court for the District of Idaho, Northern Division, be and the same is hereby adjourned to March 3, 1930 at the hour of ten o'clock, A. M. at Coeur d'Alene, Idaho.

Done in open Court this 3rd day of February, 1930.

J. STANLEY WEBSTER,

Judge.

Received Copy.

W. H. LANGROISE.

(Title of Court and Cause)

MOTION TO SUBSTITUTE BOND

Filed February 5, 1930

Comes now the defendant R. E. Weniger, and moves the court for an order substituting the personal bond executed by R. E. Weniger, as principal and Ellis L. Hale, A. H. Featherstone, Herman J. Rossi, L. C. Wilson and M. L. Savage, as sureties, for the bond on appeal heretofore given on the 31st day of December,

1929, executed by the said R. E. Weniger as principal and Aetna Casualty & Surety Company, a corporation, as surety.

TURNER, NUZUM & NUZUM,
O. J. BANDELIN,

Attorneys for Defendant
R. E. Weniger

(Title of Court and Cause)

MOTION TO SUBSTITUTE BOND

Filed February 5, 1930

Comes now the defendant Charles Bloom, and moves the court for an order substituting the personal bond executed by Charles Bloom, as principal, and Ellis L. Hale, L. C. Wilson, Sarah Gearon, J. B. Wilcox and Herman J. Rossi, as sureties, for the bond on appeal heretofore given on the 31st day of December, 1929, executed by the said Charles Bloom, as principal, and Aetna Casualty & Surety Company, a corporation, as surety.

TURNER, NUZUM & NUZUM
O. J. BANDELIN,

Attorneys for Defendant
Charles Bloom

(Title of Court and Cause)

ORDER SUBSTITUTING BOND

Filed February 5, 1930

This cause coming on for hearing on the motion of R. E. Weniger to substitute a personal bond, executed by the said R. E. Weniger, as principal, and Ellis L. Hale, A. H. Featherstone, Herman J. Rossi, L. C. Wilson and M. L. Savage, as sureties, in the sum of Five Thousand dollars (\$5000.00), conditioned according to law, said bond to act as a bond on appeal and for costs on appeal, and in all things to take the place of the bond heretofore executed on the 31st day of December, 1929, by said R. E. Weniger as principal and Aetna Casualty & Surety Company, a corporation, surety, and the court having considered said motion, and being fully advised in the premises:

IT IS ORDERED that the bond executed by R. E. Weniger, as principal, and Ellis L. Hale, A. H. Featherstone, Herman J. Rossi, L. C. Wilson and M. L. Savage, as surities, be and the same is hereby substituted for the bond on appeal and for costs for R. E. Weniger in the above entitled cause, and that the bond on appeal heretofore given on December 31, 1929, with R. E. Weniger, as principal and Aetna Casualty & Surety Company, surety, be and the same is hereby exonerated.

Done in open Court this 3rd day of February, 1930.

J. STANLEY WEBSTER,

Judge.

(Title of Court and Cause)

ORDER SUBSTITUTING BOND

Filed February 5, 1930

This cause coming on for hearing on the motion of Charles Bloom to substitute a personal bond, executed by the said Charles Bloom, as principal, and Ellis L. Hale, L. C. Wilson, Sarah Gearon, J. B. Wilcox and Herman J. Rossi, as sureties, in the sum of Three thousand dollars (\$3000.00), conditioned according to law, said bond to act as a bond on appeal and for costs on appeal, and in all things to take the place of the bond heretofore executed on the 31st day of December, 1929, by said Charles Bloom, as principal, and Aetna Casualty & Surety Company, a corporation, surety, and the court having considered said motion, and being fully advised in the premises:

IT IS ORDERED that the bond executed by Charles Bloom, as principal, and Ellis L. Hale, L. C. Wilson, Sarah Gearon, J. B. Wilcox and Herman J. Rossi, as sureties, be and the same is hereby substituted for the bond on appeal and for costs for Charles Bloom in the above entitled cause, and that the bond on appeal heretofore given on December 31, 1929, with Charles Bloom as principal, and Aetna Casualty & Surety Company, surety, be and the same is hereby exonerated.

Done in open court this 3rd day of February, 1930.

J. STANLEY WEBSTER,

Judge.

(Title of Court and Cause)

BOND ON APPEAL

Filed February 5, 1930

KNOW ALL MEN BY THESE PRESENTS:

That we, R. E. Weniger, as principal, and Ellis L. Hale, A. H. Featherstone, Herman J. Rossi, L. C. Wilson and M. L. Savage as sureties, of the County of Shoshone, State of Idaho, are held and firmly bound unto the United States in the sum of **FIVE THOUSAND DOLLARS (\$5000)**, lawful money of the United States to be paid to it and its successors, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and each of our heirs, executors, administrators and successors by these presents.

SEALED WITH OUR SEALS AND DATED THIS 21ST DAY OF JANUARY, 1930.

WHEREAS, the above named R. E. Weniger has prosecuted an appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit, to reverse the judgment of the District Court of the United States for the Northern Division of the District of Idaho in the above entitled cause;

NOW THEREFORE, the condition of this obligation is such that if the above named Weniger shall prosecute his said appeal to effect, and answer all costs, if he fail to make good his plea, and abide by and perform the sentence of law imposed upon him, then this

obligation shall be void, otherwise to remain in full force and effect.

R. E. WENIGER (SEAL)

Principal.

ELLIS L. HALE (SEAL)

A. H. FEATHERSTONE (SEAL)

HERMAN J. ROSSI (SEAL)

L. C. WILSON (SEAL)

M. L. SAVAGE (SEAL)

Approved this 3rd day of February, 1930.

J. STANLEY WEBSTER,

Judge.

State of Idaho }
County of Shoshone } ss.

Ellis L. Hale, A. H. Featherstone, Herman J. Rossi, L. C. Wilson and M. L. Savage, the sureties whose names are subscribed to the foregoing undertaking, being severally duly sworn, each for himself, says that he is a resident of Shoshone County, Idaho and a house holder therein, and is personally worth the sum of the said undertaking specified as the penalty thereof, over and above all his just debts and liabilities, exclusive of property exempt from execution.

A. H. FEATHERSTONE,

ELLIS L. HALE,

L. C. WILSON,

M. L. SAVAGE,

HERMAN J. ROSSI.

(SEAL)

Subscribed and sworn to before me this 21st day of
January, 1930.

G. L. DAVIS,

Notary Public in and for the
State of Idaho residing at
Wallace therein.

(Title of Court and Cause)

BOND ON APPEAL

Filed February 5, 1930

KNOW ALL MEN BY THESE PRESENTS:

That we, Charles J. Bloom, as principal and Ellis L. Hale, L. C. Wilson, Sarah Gearon, J. B. Wilcox and Herman J. Rossi as sureties, of the County of Shoshone, State of Idaho, are held and firmly bound unto the United States in the sum of **THREE THOUSAND** (\$3000) Dollars lawful money of the United States, to be paid to it and its successors, to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally by these presents.

SEALED WITH OUR SEALS AND DATED
THIS 21ST DAY OF JANUARY, 1930.

WHEREAS, the above named Charles J. Bloom has prosecuted an Appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit, to reverse the judgment of the District Court of the United States

for the Northern Division of the District of Idaho in the above entitled action.

NOW THEREFORE, the condition of this obligation is such that if the above named Chas. J. Bloom shall prosecute his said Appeal to effect, and answer all costs, if he fail to make good his plea, and abide by and perform the sentence of law imposed upon him, then this obligation shall be void, otherwise to remain in full force and effect.

CHAS. J. BLOOM	(SEAL)
Principal,	
ELLIS L. HALE	(SEAL)
L. C. WILSON	(SEAL)
SARAH GEARON	(SEAL)
J. B. WILCOX	(SEAL)
HERMAN J. ROSSI	(SEAL)

Approved this 3rd day of February, 1930.

J. STANLEY WEBSTER,
Judge.

State of Idaho)
County of Shoshone) ss.

Ellis L. Hale, L. C. Wilson, Sarah Gearon, J. B. Wilcox, Herman J. Rossi, the sureties whose names are subscribed to the foregoing undertaking, being severally duly sworn, each for himself or herself, says, that he and she is a resident and householder in said City of Wallace and Mullan, in said County and State, and is

worth the sum of the said undertaking specified as the penalty thereof, over and above all his or her just debts and liabilities, exclusive of property exempt from execution.

J. B. WILCOX,
ELLIS L. HALE,
SARAH GEARON,
L. C. WILSON,
HERMAN J. ROSSI.

(SEAL)

Subscribed to and sworn to before me this 21st day of January, 1930.

G. L. DAVIS,
Notary Public in and for the
State of Idaho residing at
Wallace therein.

(Title of Court and Cause)

NOTICE OF PRESENTING BILL OF
EXCEPTIONS

Filed February 17, 1930

To H. E. Ray, United States Attorney for the District of Idaho, and to W. H. Langroise and Samuel S. Griffin, Assistant United States Attorneys for the District of Idaho:

YOU, AND EACH OF YOU, will please take notice that we have forwarded Bill of Exceptions in the

above entitled case to the Clerk of the United States District Court, for the District of Idaho, at Boise, Idaho, for filing, and will present the same for certification to the Honorable J. Stanley Webster, Judge, at Coeur d'Alene, Idaho on the 3rd day of March, 1930.

TURNER, NUZUM & NUZUM
605 Columbia Building, Spokane
Washington.

O. J. BANDELIN,
Sandpoint, Idaho.

Attorneys for Defendants
Weniger and Bloom

Service of the foregoing Notice is admitted this 17th day of February, 1930 at Boise, Idaho, by receipt of a copy thereof.

H. E. RAY,
United States Attorney for
the District of Idaho.

(Title of Court and Cause)

SUPPLEMENTAL PRAECIPE FOR
TRANSCRIPT

Filed February 17, 1930

To W. D. McReynolds, Clerk of the above entitled court:

Please prepare and certify to the Circuit Court of

Appeals of the Ninth Judicial Circuit, the following papers and records in the above cause:

1. Answer to Plea in Abatement of R. E. Weniger.
2. Answer to Plea in Abatement of Charles Bloom.
3. Order of adjournment of term until March, 1930.
4. Motion to Substitute Bond of R. E. Weniger.
5. Motion to Substitute Bond of Charles Bloom.
6. Order to Substitute Bond of R. E. Weniger.
7. Order to Substitute Bond of Charles Bloom.
8. Notice of Filing Bill of Exceptions.
9. Substituted Bond on Appeal of R. E. Weniger.
10. Substituted Bond on Appeal of Charles Bloom.

TURNER, NUZUM & NUZUM
605 Columbia Building, Spokane
Washington.

O. J. BANDELIN,
Sandpoint, Idaho.

Attorneys for Defendants
Weniger and Bloom

(Title of Court and Cause)

APPLICATION FOR EXTENSION
OF TIME

Filed Feb. 22, 1930

Comes new H. E. Ray, United States Attorney for

the District of Idaho, and informs the court that heretofore, on the 17th day of February, 1930, the defendants above named served upon him bill of exceptions in the above entitled cause; that under Rule 76 of the United States District Court for the District of Idaho, ten days after such service is allowed for the service of proposed amendments to said proposed bill of exception; that at the present time the February, 1930 term of the United States District Court for the District of Idaho, Southern Division is in session and the applicant, together with the members of his office staff, is engaged in the handling of criminal causes on behalf of the United States at said term and will probably not be able to give any attention to said bill of exceptions during said term; that on March 10, 1930, the Pocatello term of the United States District Court convenes at Pocatello, Idaho, in the Eastern Division of said District and is expected to continue throughout the balance of said month of March, and the applicant and his staff will be required to be at Pocatello, Idaho, and engaged in the handling of matters in which the United States is interested during the whole of said term;

That the transcript in the above entitled cause is extremely voluminous and the proposed bill of exceptions consists of 389 pages and that to properly examine said bill of exceptions and to check the same with the transcript of evidence and the records and files in said cause would require considerable time.

WHEREFORE, applicant prays that the United States be granted to and including the 15th day of April, 1930, within which to serve upon the defendants above named proposed amendments to the proposed bill of exceptions.

DATED this 18th day of February, 1930.

H. E. RAY

United States Attorney for the
District of Idaho

(Title of Court and Cause)

ORDER EXTENDING TIME

Filed Feb. 22, 1930

Good cause appearing,

IT IS ORDERED that the United States Attorney for the District of Idaho be and he hereby is granted to and including the 15th day of April, 1930, within which to propose amendments to the proposed bill of exceptions in the above entitled cause filed with the clerk of the said court on February 17, 1930.

DATED this 20th day of February, 1930.

J. STANLEY WEBSTER

District Judge

(Title of Court and Cause)

ORDER

Filed Apr. 15, 1930

Good cause appearing therefore,

IT IS ORDERED, that the regular November 1929 term of the District Court for the Northern Division of the above entitled court be, and the same is hereby continued to and including the fifth day of May, A. D., 1930.

DATED this 15th day of April, A. D. 1930.

CHARLES C. CAVANAH
District Judge

(Title of Court and Cause)

ORDER

Filed May 5, 1930

Good cause appearing therefore,

IT IS ORDERED, that the regular November 1929 term of the District Court for the Northern Division of the above entitled court be, and the same is hereby continued to and including the twenty-fourth day of May, A. D., 1930.

CHARLES C. CAVANAH
District Judge

(Title of Court and Cause)

MOTION TO STRIKE PART

OF DEFENDANTS'

PROPOSED BILL OF EXCEPTIONS

Filed Apr. 9, 1930

Comes now the plaintiff, United States of America, and moves to strike the following part of defendants' proposed bill of exceptions upon the grounds and for the reasons that the following objections were made by counsel O. J. Bandelin, who was not counsel of record for either R. E. Weniger or Charles Bloom as appears from all the records and files in this case, and more particularly as appears in the minute entry of December 16, 1929, in the case of United States vs. R. E. Weniger et al, No. 3035, a copy of which being attached hereto and made a part hereof and this notion is based upon all the records and files in this case.

1. Strike the objection appearing upon page 9 of defendants proposed bill of exceptions and the ruling thereon.

2. Strike, on page 10, beginning on line 14 thereof from the top the objection of Mr. Bandelin and ruling including to the end of line 17 from the top thereof.

3. Strike, on page 10, beginning on line 14 and from the bottom thereof to the end of the sentence in line 12 from the bottom thereof.

4. Strike, on page 11 of defendants' proposed bill

of exceptions beginning at line 4 from the top thereof and ending at the end of line 7 from the top thereof.

5. Strike, page 131—132 of defendants' proposed bill of exceptions the objections made by Mr. Potts, Mr. Wernette and Mr. Bandelin, and the Court's rulings thereon.

From the examination of the record in this case, it appears that R. E. Weniger and Charles Bloom were represented by the firm of Turner, Nuzum and Nuzum, and by no one else.

Respectfully submitted,

H. E. RAY

United States Attorney for the
District of Idaho

W. H. LANGROISE

Ass't U. S. Attorney for the
District of Idaho

S. S. GRIFFIN

Ass't U. S. Attorney for the
District of Idaho

(Title of Court and Cause)

MINUTES OF THE COURT

December 16, 1929

Exhibit on Motion to Strike

This cause came regularly on for trial before the Court and a jury, H. E. Ray, District Attorney, and

W. H. Langroise and Sam S. Griffin, Assistant District Attorneys, appearing for the plaintiff.

O. J. Bandolin, Esquire, was entered as associate counsel for the defendants Walter Johnson, Mike Kennedy, Jack Malloy, Babe Kelly, Jimmie Ryan, Bertha Strom, Mona McDonald and Regina Dalo.

On motion of the District Attorney, it was ordered that the indictment in its entirety be, and the same is hereby dismissed as to the defendant Henry Kohkonen, and said defendant was discharged and his bond fully exonerated.

The District Attorney assenting to the motion of the defendant Elmer Olson for a continuance, it was ordered that the trial of said defendant be continued for the term.

The trial proceeded as to the defendants Charles Anderson, William E. Coughlin, Waino Pikkerainen, Joseph Speck and Agnes West, who were present with their counsel, N. D. Wernette, Esquire; the defendants Roy Appleton, Herman Arblins, Milford Gardner, John Thompson and Charles Fond, who were present with their counsel, Messrs. Reed & Reed; the defendants Charles Bloom, Anna Tornberg and R. E. Weniger, who were present with their counsel Messrs. Turner-Nuzum & Nuzum; the defendants Arthur J. Harwood, Henry Foss, George Huston, Harcourt Morphy, Charles Ristau, F. O. Welch and John Wheatley, who were present with their counsel Messrs. Gray & Potts; the defendants Regina Dalo, Mike Kennedy, Babe Kelly, John Malloy, Mona McDonald, Jimmie Ryan,

Bertha Strom and Walter Johnson who were present with their counsel Messrs. George T. Walker and O. J. Bandolin; and the defendant Gust Aro who was present with his counsel O. J. Bandolin, Esquire.

The Clerk, under directions of the Court, proceeded to draw from the jury box the names of twelve persons, one at a time, written on separate slips of paper to secure a jury. F. O. Spoor, Frank Taylor, Ben Carrigan, Ole G. Langerak, John Cartwright and R. E. Dunlap, whose names were so drawn, were excused for cause; John W. Snyder, D. R. Holderman, J. J. Clark, Ed Anderson and Ralph C. Pense, whose names were also drawn, were excused on the plaintiff's peremptory challenge; and H. R. Davis, James Gunn, A. V. Chamberlain, F. W. Fitze, F. M. Saunders, Frank Horner, George Parr, C. M. Davis, John Larson and J. E. Wallace, whose names were likewise drawn, were excused on the defendants' peremptory challenge.

(Title of Court and Cause)

ORDER

Filed May 7, 1930

This cause coming on for hearing upon the motion of plaintiff to strike from the Bill of Exceptions certain matters and things as contained in said motion, and the same having been submitted by counsel for defendants, R. E. Weniger and Charles Bloom, on said

motion, and the Bill of Exceptions, and statements, oral and in writing, by said counsel:

IT IS BY THE COURT ORDERED, ADJUDGED AND DECREED that said motion of plaintiff be and the same is hereby denied.

Done in open Court this 5th day of May, 1930.

J. STANLEY WEBSTER,

Judge.

Service Accepted

May 7, 1930

W. H. LANGROISE

(Title of Court and Cause)

BILL OF EXCEPTIONS

Filed May 7, 1930

BE IT REMEMBERED that at the November, 1929 Term of this Court, held in the City of Coeur d'Alene, State of Idaho, in the months of November and December, 1929, the Honorable J. Stanley Webster, Judge of said Court presiding, the above entitled cause came on to be heard, and the following proceedings were had, to-wit:

The defendants, R. E. Weniger and Charles Bloom, filed their Plea in Abatement, which is as follows, to-wit:

PLEA IN ABATEMENT

Come now the defendants, R. E. Weniger, Charles

Bloom and Anna Tornberg, each of his own proper person, and having heard the indictment in this case read, say:

That the grand jury which found said indictment was without power or authority to find or return the said indictment because the offense therein alleged was committed, if committed at all, in the Northern Division of the District.

Defendants further say that the grand jury finding and returning said indictment was one drawn from the Central Division of the District of Idaho at a term of court held for the said Central Division of the District of Idaho, and that the only pretended authority for said grand jury to inquire into and find and return indictments for offenses alleged to have been committed in the Northern Division of the District of Idaho was a direction to the Clerk of the said court by the Judge thereof to draw a grand jury for the said term for grand jury service for the district at large, as shown by the record of the court with respect to the drawing of a grand jury, as follows:

“In the matter of drawing grand jury for
November Term, 1929.

It appearing that a grand jury will be necessary at the November Term of this Court in the Central Division, the Clerk, under directions of the Court, drew from the jury box of said division, the names of thirty persons, which names were incorporated in a venire directing the Marshal to summon the persons therein

named to appear in the court room of this court at Moscow, in said Division, at ten o'clock, A. M. Monday, October 4, 1929, for grand jury service for the district at large. Following are the names which were drawn:

Albers, J. H.....	Russell, Lewis County
Clovis, Clyde.....	Craigmont, Lewis County
Coder, Elmer E.....	Grangeville, Idaho County
Deal, Harry.....	Orofino, Clearwater County
Dwyer, Thos.	Genesee, Nez Perce County
Eastman, Clarence.....	Craigmont, Lewis County
George, U. J.....	Myrtle, Nez Perce County
Gill, E. E.....	Peck, Nez Perce County
Grant, H. T.....	Fletcher, Lewis County
Gustin, A. J.....	Webb, Nez Perce County
Henderson, T. B.....	Peck, Nez Perce County
Kennedy, J. C.....	Lewiston, Nez Perce County
Larson, Albert.....	Lapwai, Nez Perce County
Mallory, H. W.....	Moscow, Latah County
Morris, Victor.....	Potlach, Latah County
Nuxoll, Francis J.....	Greenereek, Idaho County
Olander, S. P.....	Winchester, Lewis County
O'Reilly, Michael.....	Genessee, Latah County
Patton, H. E.....	Grangeville, Idaho Sounty
Peterson, Sam.....	Boville, Latah County
Phillips, Wendell.....	Lewiston, Nez Perce County
Pierce, M. A.....	Cottonwood, Idaho County
Schumacher, F. W.....	Fem, Idaho County
Thain, John.....	Melrose, Nez Perce County
Winters, W. J.....	Myrtle, Nez Perce County
Driscoll, Walter.....	Troy, Latah County

Harbke, Andrew.....	Russell, Lewis County
Miles, J. E.....	Grangeville, Idaho County
Meade, Owen.....	Nez Perce, Lewis County
Saad, George M.....	Troy, Latah County

Defendants further say that the recital in the caption of said indictment that it was in the Northern Division of the District of Idaho is not a true recital, and that the recital in the body of the indictment that it was found by a grand jury of the District of Idaho is not true in fact.

Defendants further say that they had no knowledge of the contemplated indictment, and the impaneling and sitting of said grand jury in the Central Division, and no knowledge that an indictment had been found against them until their arrest thereunder, and no opportunity to plead thereto until their arraignment on said indictment in said Northern Division, which was on the 18th day of November, 1929, and that the plea in abatement to which this plea is an amendment was filed as soon as the same could reasonably be prepared and filed after their said arraignment.

And these defendants say that they were entitled to have said grand jury drawn from the entire body of the district, in the absence of a specific order of the Judge of the said court requiring the grand jury to be drawn from some specific part of the district, and the defendants say that no such order was given unless it be found in the record aforesaid, and that the Clerk construing the said direction for himself, and without

any direction in the premises, drew from the grand jury box grand jurors living only in the said Central Division, and as a result thereof no individual grand juror or grand jurors composing the grand jury which found said indictment was from any part of the District of Idaho other than the Central Division thereof, and defendants say that they are not guilty of the accusations contained in said indictment, and that they were injured and prejudiced in the matter of the impaneling of said grand jury, and in its action in finding said indictment, by the fact that it was a partial grand jury of the district and contained no member or members from any part of the district other than the Central Division thereof, and under the course pursued in the drawing of said grand jury there was no possibility of one or more members being drawn from the vicinage who might have felt an interest in protecting them from an unfounded accusation.

WHEREFORE, these defendants pray judgment of the said indictment, and that the same be quashed.

(Signed) TURNER, NUZUM & NUZUM
Attorneys for Defendants, R. E. Winegar,
Charles Bloom and Anna Tornberg.

P. O. Address: 605 Columbia Building,
Spokane, Spokane County, Washington.

STATE OF IDAHO
 COUNTY OF KOOTENAI }^{ss.}

R. E. WINEGAR, CHARLES BLOOM and ANNA TORNBERG, defendants in the above entitled cause, being first duly sworn on oath, depose and say, each for himself, as follows:

I am one of the defendants in said action. I have read the within and foregoing Amended Plea in Abatement and know the contents thereof and that the same is true, as I verily believe.

(Signed) R. E. Weniger

(Signed) Chas. J. Bloom

(Signed) Anna Tornberg

Subscribed and sworn to before me this 30 day of November, 1929.

(Signed) C. W. Potts

Notary Public for the State of Idaho
 Residing at Coeur d'Alene.

(SEAL)

ANSWER TO PLEA IN ABATEMENT.

Comes now the above named plaintiff and in answer to the above named defendants, admits, denies, and alleges to-wit, denies each and every allegation to said plea in abatement,

Except plaintiff admits that the Grand jury returning the indictment in the above named case at Moscow,

State and District of Idaho, was drawn from the counties comprising the Central Division of the District Court of the United States in and for the District of Idaho, and that said offense specified in said indictment was committed in the Northern Division of said District of Idaho.

And admits the copy of the court minutes set forth on pages one and two of said plea in abatement.

WHEREFORE, plaintiff prays that said plea in abatement be denied.

(SIGNED) H. E. RAY

United States Attorney for the
District of Idaho

That on the hearing of said Plea in Abatement, the following proceedings were had:

November 30th, 1929—Saturday.

MR. NUZUM: We offer in evidence the minutes of the District Court for the District of Idaho, Southern Division, September Term, 1929, for Wednesday, October 9th, 1929.

THE COURT: Any objection?

MR. RAY: No objection.

MR. NUZUM: I will ask that this be marked Exhibit "1".

THE COURT: Yes.

MINUTES OF THE DISTRICT COURT OF
THE UNITED STATES FOR THE DISTRICT
OF IDAHO, SOUTHERN DIVISION, SEP-
TEMBER TERM, 1929.

UNITED STATES OF AMERICA, }
DISTRICT OF IDAHO. } ss.

Twenty-fifth Judicial Day of the District Court of the United States for the District of Idaho, within and for the Southern Division, convened in Boise in said District at nine-thirty o'clock, A. M. Wednesday, October 9, 1929, pursuant to adjournment.

PRESENT: Honorable Charles G. Cavanah, District Judge, and the officers of the Court.

On this day the following proceedings were had, to-wit:

**IN THE MATTER OF DRAWING GRAND
JURY FOR NOVEMBER TERM, 1929:**

It appearing that a grand jury will be necessary at the November Term of this Court in the Central Division, the Clerk, under directions of the Court, drew directing the Marshal to summon the persons therein from the jury box of said division, the names of thirty persons, which names were incorporated in the venire named to appear in the court room of this court at Moscow, in said Division, at ten o'clock A. M., Monday, November 4, 1929, for grand jury service for the dis-

trict at large. Following are the names which were drawn:

Albers, J. H.....	Russell, Lewis County
Clovis, Clyde.....	Craigmont, Lewis County
Coder, Elmer E.....	Grangeville, Idaho County
Deal, Harry.....	Orofino, Clearwater County
Dwyer, Thos.	Genesee, Nez Perce County
Eastman, Clarence.....	Craigmont, Lewis County
George, U. J.....	Myrtle, Nez Perce County
Gill, E. E.....	Peck, Nez Perce County
Grant, H. T.....	Fletcher, Lewis County
Gustin, A. J.....	Webb, Nez Perce County
Henderson, T. B.....	Peck, Nez Perce County
Kennedy, J. C.....	Lewiston, Nez Perce County
Larson, Albert.....	Lapwai, Nez Perce County
Mallory, H. W.....	Moscow, Latah County
Morris, Victor.....	Potlach, Latah County
Nuxoll, Francis J.....	Greencreek, Idaho County
Olander, S. P.....	Winchester, Lewis County
O'Reilly, Michael.....	Genesee, Latah County
Patton, H. E.....	Grangeville, Idaho County
Peterson, Sam.....	Boville, Latah County
Phillips, Wendell.....	Lewiston, Nez Perce County
Pierce, M. A.....	Cottonwood, Idaho County
Schumacher, F. W.....	Fenn, Idaho County
Thain, John.....	Melrose, Nez Perce County
Winters, W. J.....	Myrtle, Nez Perce County
Driscoll, Walter.....	Troy, Latah County
Harbke, Andrew.....	Russell, Lewis County
Miles, J. E.....	Grangeville, Idaho County

Meade, Owen.....Nez Perce, Lewis County

Saad, George M.....Troy, Latah County

MR. NUZUM: I will offer in evidence as Exhibit No. 2 the venire issued to the Marshall for the summoning of the grand jury, together with the names of the grand jury and their addresses.

THE COURT: Admitted.

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

THE PRESIDENT OF THE UNITED
STATES OF AMERICA

To the Marshal of the United States,
for the District of Idaho,

GREETINGS:

This is to command you that you summon the following named persons, publicly drawn according to law, on the 9th day of October, 1929, duly qualified to serve as Grand Jurors, to be and appear before the United States District Court for the District of Idaho at the Court Room thereof, in Moscow, District aforesaid, on Monday the 4th day of November, 1929, at 2 o'clock P. M., then and there to do and receive such matters and things as shall be given them in charge, to-wit:

1. Albers, J. H.....Russell, Lewis Co.
2. Clovis, Clyde.....Craigmont, Lewis Co.

3. Coder, Elmer E.....Grangeville, Idaho Co.
4. Deal, Harry.....Orofino, Clearwater Co.
5. Dwyer, Thos.....Genesee, Nez Perce Co.
6. Eastman, Clarence.....Craigmont, Lewis Co.
7. George, U. J.....Myrtle, Nez Perce Co.
8. Gill, E. E.....Peck, Nez Perce Co.
9. Grant, H. T.....Fletcher, Lewis Co.
10. Gustin, A. J.....Webb, Nez Perce Co.
11. Henderson, T. B.....Peck, Nez Perce Co.
12. Kennedy, J. C.....Lewiston, Nez Perce Co.
13. Larson, Albert.....Lapwai, Nez Perce Co.
14. Mallory, H. W.....Moscow, Latah Co.
15. Morris, Victor.....Potlach, Latah Co.
16. Nuxoll, Francis J.....Greencreek, Idaho Co.
17. Olander, S. P.....Winchester, Lewis Co.
18. O'Reilly, Michael.....Genesee, Latah Co.
19. Patton, H. E.....Grangeville, Idaho Co.
20. Peterson, Sam.....Bovill, Latah Co.
21. Phillips, Wendell.....Lewiston, Nez Perce Co.
22. Pierce, M. A.....Cottonwood, Idaho Co.
23. Schumacher, F. W.....Fenn, Idaho Co.
24. Thain, John.....Melrose, Nez Perce Co.
25. Winters, W. J.....Myrtle, Nez Perce Co.
26. Driscoll, Walter.....Troy, Latah Co.
27. Harbke, Andrew.....Russell, Lewis Co.
28. Miles, J. E.....Grangeville, Idaho Co.
29. Meade, Owen.....Nez Perce, Lewis Co.
30. Saad, George M.....Troy, Latah Co.

And of what you shall have done in the premises do

you then and there make return, together with this writ.

WITNESS the Honorable Charles C. Cavanah,
Judge of said Court and the seal thereof, this 9th day of
October, 1929.

(Signed) W. D. McREYNOLDS,

Clerk.

Deputy Clerk.

U. S. MARSHAL'S OFFICE

District of Idaho

In obedience to the foregoing Writ of Venire, I have
cited and admonished

ANSWERED	TOWN	COUNTY
1. Albers, J. H.....	Russell.....	Lewis
2. Clovis, Clyde.....	Craigmont.....	Lewis
3. Coder, Elmer E.....	Grangeville.....	Idaho
4. Deal, Harry.....	Orofino.....	Lewis
5. Eastman, Clarence....	Craigmont.....	Lewis
6. George, U. J.....	Myrtle.....	Nez Perce
7. Gill, E. E.....	Peck.....	Nez Perce
8. Grant, H. T.....	Fletcher.....	Lewis
9. Gustin, A. J.....	Webb.....	Nez Perce
10. Kennedy, J. C.....	Lewiston.....	Nez Perce
11. Mallory, H. W.....	Moscow.....	Latah
12. Morris, Victor.....	Potlatch.....	Latah
13. Nuxoll, Francis J.....	Greencreek.....	Idaho
14. Olander, S. P.....	Winchester.....	Lewis
15. Phillips, Wendell.....	Lewiston.....	Nez Perce
16. Pierce, M. A.....	Cottonwood.....	Idaho

- 17. Schumacher, F. W...Fenn.....Idaho
- 18. Driscoll, Walter.....Troy.....Latah
- 19. Harbke, Andrew.....Russell.....Lewis
- 20. Miles, J. E.....Grangeville.....Idaho
- 21. Meade, Owen.....Nez Perce.....Lewis
- 22. Saad, Geo. M.....Troy.....Latah

EXCUSED

- 23. Dwyer, Thos.....Genesee.....Nez Perce
- 24. Henderson, T. B.
 (Deceased)Peck.....Nez Perce
- 25. Larson, Albert.....Lapwai.....Nez Perce
- 26. O'Reilly, Michael
 (Unclaimed).....Genesee.....Latah
- 27. Patton, H. E.....Grangeville.....Idaho
- 28. Peterson, SamBovill.....Latah
- 29. Thain, John
 (Deceased)Melrose.....Nez Perce
- 30. Winters, W. J.
 (Unclaimed).....Myrtle.....Nez Perce

F. M. BRESHEARS, U. S. Marshal

By (Signed) E. BROWN, Deputy

MR. NUZUM: We had the oath the other day, Mr. Clerk, that was administered to the grand jury. (Informal discussion.)

MR. NUZUM: I offer in evidence the entire oath.

THE COURT: Let it be admitted. That can be marked Exhibit "3".

OATH TO THE FOREMAN OF THE GRAND JURY

You as foreman of this inquest for the body of the District of Idaho, do swear that you will diligently inquire, and true presentment make of such articles, matters and things as shall be given you in charge, or otherwise come to your knowledge touching the present service. The Government's counsel, your fellows and your own, you shall keep secret; you shall present no person for envy, hatred or malice; neither shall you leave anyone unrepresented for fear, favor, affection, hope of reward or gain, but shall present all things truly as they come to your knowledge, according to the best of your understanding. So help you God.

OATH TO OTHER MEMBERS OF THE GRAND JURY.

The same oath which your foreman has now taken before you on his part, you and each of you shall well and truly observe on your part. So help you God.

CHARLES C. CAVANAH, a witness called on behalf of the Government, after having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

BY MR. RAY:

Q. You are Charles C. Cavanah, Judge of the United States District Court for the District of Idaho?

A. Yes.

Q. You have been such for the last two years past?

A. Yes.

Q. At the time of the calling of the Grand Jury for the term of court for the Central Division, Moscow, Idaho, I will ask you, Judge Cavanah, what order if any you gave the clerk for the calling of that grand Jury?

MR. NUZUM: I object to that on the ground that it is all the matter of record.

THE COURT: Overruled.

MR. NUZUM: Exception.

A. As I recall at Boise in open court I entered an order calling a grand jury to meet in the Central Division at Moscow at the next term of court, which I think met the 4th of November, and to inquire into matters for the district and to be drawn from the Central Division. At that time I remember I inquired of the District Attorney, who was then present in court, if it was the desire of the Government to have the grand jury drawn for the district, that is, inquire into matters for the district, and to be drawn though from the Central Division, and he replied, Yes. Then when we convened court at Moscow, and when in impaneling the grand jury, in my charge to them I informed them that they could inquire into matters for the district.

CROSS EXAMINATION

BY MR. NUZUM:

Q. As I understand you Judge, it was before, or

was it after, you entered this order that you inquired of the District Attorney?

A. Before.

Q. Whether he desired the grand jurors who were to investigate offenses in the district at large to be drawn from the Central Division?

A. No. I inquired of the Government if they desired the grand jury to inquire into matters for the district, not as to where they should be drawn. I made the order following that, that they should be drawn from the Central Division, which was the division in which the court convened at Moscow.

Q. This order, I think you have seen it—we have introduced is—that is the order you refer to—was more than one?

A. That was the order—there was only one order made.

Q. As I understand the order which was introduced before here—introduced as an exhibit, is the same—

A. Yes, I have read it.

Q. That is the order you refer to?

A. Yes.

Q. May I ask whether or not the order was a verbal order from the bench, or was it a written order prepared by somebody and filed with the Clerk?

A. It was an order I made from the bench, and I instructed the Clerk to enter the order. I will state that that is the practice we have followed in this district, that I make orders in open court calling grand jurors where the court is to meet the following term we hold.

That is done in open court, and the order is made calling grand jurors where to meet the next coming term.

THE COURT: Any further testimony.

MR. RAY: No.

UNITED STATES OF AMERICA

vs.

R. E. WINEGAR, et al

N. D.

Criminal No. 3035

It appearing that the Grand Jury, having been called for the District of Idaho and sitting in this division, has returned an indictment herein for the Northern Division of the District,

Now, therefore, it is ordered that said indictment, returned as aforesaid, be transferred to the Northern Division of the District for all further procedure.

THE COURT: Proceed with the argument.

The court on the 22nd day of November, 1929 denied said plea, to which an exception was taken, and exception allowed.

Afterwards, and on, to-wit, December 16, 1929, the following proceedings were had: A jury having been duly impaneled, the following testimony was introduced:

RAYMOND D. NEEDHAM: a witness called on behalf of the Government, testified:

DIRECT EXAMINATION

BY MR. RAY:

My name is Raymond D. Needham.

THE COURT: If the rule is to be invoked with respect to the separation of witnesses, it must be done now.

MR. WERNETTE: I will ask for the exclusion of witnesses so far as the clients I represent are concerned.

MR. BANDELIN: So far as the defendants I represent are concerned I will ask for the exclusion of witnesses.

THE COURT: I think we will have to make an entrance way here, Mr. Ray, and have the names of the witnesses called. Have them come in here. The witnesses for the defense are also included in the rule. It doesn't apply to the defendants themselves, of course.

Witnesses brought in Court Room.

THE COURT: Are there any other witnesses in this case on behalf of the Government or defendants now in the court room; if so, please come around and stand with these witnesses who are standing.

MR. RAY: Some witnesses I have released and will not report here this afternoon.

THE COURT: See that they are admonished not to come in the court room.

THE COURT: All here now. To those of you who have been brought here as witnesses to testify in

this case it becomes my duty to explain to you the legal effect of the rule for the separation of witnesses. When that rule is invoked it means this: That only the witness on the stand testifying may be present in the court room. Before you are called to the witness stand to give your testimony you must not disclose to any person what you are going to testify to, and after you have been on the witness stand and given your testimony, you must not disclose to any person what you have testified to until after this case is finally submitted to the jury. Please bear that in mind. Do not disclose before taking the witness stand what you expect to testify to, and after being on the witness stand do not disclose what you have testified to until after the case is submitted finally to the jury. Of course this admonition does not apply to attorneys in the case, and you may discuss your testimony with them so that they can intelligently know what you are going to testify to. It does apply to all persons except counsel in the case. Now I suggest that you either occupy the jury room here, or keep conveniently near in the corridor so that we will not lose time in getting you when we are ready for you. Is there some place provided for these ladies, Mr. Ray?

MR. RAY: They can go in the grand jury room.

THE COURT: The Government may, if it wishes, select one witness to remain and assist in the introduction of the testimony.

EXAMINATION OF MR. NEEDHAM proceeded as follows:

I have resided in Mullan since May, 1905; am married; a prospector in general mining and working in mines. In the forepart of the year 1927 I was working at the Carney Copper prospect on the South Fork of the Coeur d'Alene river; my family resided in Mullan, but my wife was in New York at the time. I went to Mullen about the middle of April, 1927. The approximate population of Mullan, Shoshone County, is 3000; it is about seven miles from Wallace, the county seat, and is in the State of Idaho. Mining is the principal business around Mullan. I went to Mullan in the spring of 1927 to the office of the City Clerk Martin. Mr. Harwood was chairman of the Board of Trustees and called the Mayor. He said he wanted to see me relative to taking the police job. I met Mr. Wheatley later, and he asked me the same thing.

MR. NUZUM: I represent Sheriff Weniger, and I object to that as hearsay, incompetent, irrelevant and immaterial. I do not know that any talk he had with Wheatley would—

THE COURT: Is Wheatley included here?

MR. RAY: Yes, he is one of the councilmen of the Village of Mullan.

THE COURT: Included in this indictment?

MR. RAY: Yes.

THE COURT: Overruled.

MR. NUZUM: Exception.

A. (Needham continuing) I had not seen Harwood. He told me to see him and wanted me to make an application if their ticket was elected. I did see Har-

wood at his house. He wanted me to put in an application for chief of police if their ticket was elected. I told him I would. The ticket was elected and I did. I applied before the first of May and at the meeting on the 2nd of May I was elected.

Q. MR. RAY: What happened at that meeting. Mr. Needham?

MR. NUZUM: May this all be considered as going in under objection? I cannot see that this has got anything to do with any conspiracy.

THE COURT: The objection is overruled.

MR. NUZUM: May we have an exception?

THE COURT: Yes sir. I think it may be understood now so far as this court is concerned that each counsel may consider it understood that an exception is reserved and allowed to all adverse rulings.

A (Needham continuing) I was given the oath of office by Martin, City Clerk. I went to Mr. Welch, the night police, who is the defendant here, commonly called Army Welch. With him I went to different places throughout the town known as the bootlegging dumps in Mullan that night and he introduced me to different ones throughout the town. We visited Marble Club and Marble Front Apartments, the Coffee House; then there is the Bilberg, the Miners Club, the Mullan Pool Hall, the Marble Front and the Mullan Inn. They were carrying on their regular rotation of business; in the booze joints they were selling booze. The places we visited that night, that was the general business. Mr. Welch introduced me to the proprietors or operators of these

various places. I had a discussion with Mr. Harwood in his drug store the first or second day I was on the police job. He wanted me to make a special effort to keep drunks off the street. I told him the only way to do was to close the bootlegging dumps. He said that we did not want to do that, that the property owners would object. That is Harwood, the defendant here. Harwood gave me a list. It was written in longhand covering the different places to collect from. Some of them he told me he did not know whether they were selling beer or not but to find out, and it is written on the paper "find out." I gave the list to Mr. Rodgers, the prohibition man; that is the original list. I gave the longhand to Mr. Martin. He made two copies of that in typewriting, and I gave one of them to Mr. Rodgers. I compared the copy with the original in Martin's office. Do not know what became of the original. I left it with Mr. Martin.

Q. Handing you now Plaintiff's Exhibit No. 1 for identification, Mr. Needham, I will ask you if that is the list to which you have just made reference.

A. Yes, sir, that is the list.

MR. RAY: We offer that in evidence, your honor.

PLAINTIFF'S EXHIBIT NO. 1

GENERAL FINANCIAL FUND

Central Hotel; Harwood's	\$35.00
Mullan Pool Hall	25.00
Miners Club	25.00

Mrs. C. F.	20.00
Mike Conovich	20.00
Mrs. Stork	20.00
Mrs. Dalo	20.00
Mrs. Mary Smythe	20.00
Spanish Joe (Find out).....	20.00
Mrs. Mary Orazem (find out).....	20.00
Hotel Bilberg	35.00
Mrs. Burns, Noodle Parlors....	\$25.00 and \$15.00 each
Muckers Club	25.00
Fern Hotel Apartments.....	\$25.00 and \$15.00 each
The Bolo	25.00
Marble Front	25.00
Marble Front Apartments, Harwoods.....	\$25.00 and \$15.00 each at 218 Earle Ave.
M. F. LeGore	35.00
Mrs. Andy Hill	20.00
Josephine Pinazza	20.00
Anna Tornberg	25.00
Mrs. Mary Morland	25.00
Wm. Headlund	25.00
Mullan Inn	25.00
Mon-nie (Cabin) Harwoods....	\$25.00 and \$15.00 each at 226 Hunter Ave.
Yellowstone Cigar Store	35.00
Coffee Shop, (Ainsworth).....	\$25.00 and \$15.00 each
Mrs. Pratt (Bath House).....	10.00
Pavolou (Pavola) find out.....	20.00
Flynns Garage (Domingo Zabala) find out.....	20.00
Mrs. Troyer (Mathews)	20.00

A. W. Whaley	35.00
M.D.N.	D.B.R.
6-13-1929	6-13-29

MR. NUZUM: On behalf of Bloom and Weniger, I desire to object as incompetent and immaterial. It has got to be connected up.

THE COURT: Of course, counsel understands that where there is a large number of defendants on trial that testimony may be competent as to a particular defendant and not competent as to others, and the court will have to take care of that in its instructions to the jury. If the testimony is competent as against any defendant, of course, it has to go before the jury.

MR. NUZUM: I understand that, your honor, and I do not want it to be deemed that I had waived it; that is the only reason I suggested it to your honor.

WITNESS NEEDHAM (Continuing) The original was left with Mr. Martin, the clerk of the Village of Mullan. It was given to me by Mr. Harwood, the defendant herein. I made a comparison of the copy with the original. Typewritten statement Exhibit 1 was made by Mr. Martin himself, copied from the original, and I used Exhibit 1 as Chief of Police in performance of my duties in collecting monies. This original list, Exhibit 1, I compared with the longhand original one that was given to me and Exhibit 1 is identical with it. I left the original with Judge Martin who was village clerk then, and is now. The original from which Exhibit 1 was made was given me by Harwood. I have never had the origi-

nal in my possession since it was turned over to Martin when the copy was made. I visited the places written on the list. I showed the list to the people in the beer section where it was in what they called the main stem, we issued a license of \$25.00 a month for places where they were selling intoxicating liquor, but there is a part of this list also that covers places where there was gambling. I collected from the different ones. Some objected to paying the full amount that their business did not justify it, and I took any amount of cases what was offered, and I turned that money into Mr. Martin, the village clerk. He made a copy of the names and amounts at the end of each month and summed it up together and gave a copy to each of the trustees at the first meeting of the next month so they had the list of every name I collected from except a few marked cash. I knew how much to collect from the individuals because I was given the slip in one instance and then the license was given me by Mr. Martin. I took the license slips from him, Martin, and went to the various places and presented them. They gave me \$25.00 for each one. The blanks were filled out for the various places. I turned the money collected to Mr. Martin. I collected those licenses once a month, usually about the first. Collections from other sources which I have testified concerning than licenses about the 14th to the 28th. I went into the office May 2, 1927 and remained until November 9, 1928.

In making collections from persons other than those to whom I delivered licenses, I used a list or paper identified as Exhibit 2, which lists were used during the

period I was in office as chief of police of the village of Mullan. I collected money from the various places or individuals whose names appear thereon, the amount set opposite their names and gave the money to the village clerk, Mr. Martin. The notations in ink containing dates and figures were put on by Mr. Martin and indicate the amount of money I turned in at any particular time. Notations were made in my presence and, after I had completed my work with a slip, I left it with Mr. Martin, the village clerk. Referring to Exhibit No. 1, the first name, Central Hotel, Harwood's, \$35.00 indicated the amount that was collected for running a gambling game at the Central Hotel, operated, when I went in to office, by Si Forsythe.

MR. RAY: Hartley is one of the defendants in this action. Miner's Club, \$25.00", what does that indicate?

A. That was for gambling. The Miners' Club was operated by James Normile and Louis Trikla. Mike Conovich, \$20.00; was selling beer from his home. The next one, Mrs. Stork, \$20.00; I never collected from her. Mrs. Dalo, \$20.00, I never collected from her that much. I collected \$5.00 two or three times only. Mrs. Smythe, \$20.00; I collected once from her. **Q.** "Spanish Joe", Find Out, \$20.00, what does that indicate? **A.** I asked him if he was selling beer, and he said, "No." I did not collect from him at that time, but at one time he was going to give a party and he gave me \$10.00. Mrs. Mary Orazem, Find Out, \$20.00, indicates I should find out if she was selling beer, and she said she

was not. Hotel Bilberg was for gambling; operated by Charley Fond, one of the defendants, Mrs. Burns, Noodle Parlors, \$25.00 and \$15.00. That means \$25.00 for Mrs. Burns, the landlady of the house of prostitution and \$15.00 for each girl. Mucker's Club, \$25.00, was for gambling. Fern Hotel Apartments, \$25.00 and \$15.00 each was for prostitution, operated by Bertha Strom, one of the defendants in the case.

MR. BANDELIN: At this time the defendant objects to any testimony along that line and asks that it be stricken on the ground it does not prove or tend to prove any matter alleged in this indictment.

THE COURT: The motion is denied.

A. The Bolo, \$25.00 was for gambling; Marble Front, \$25.00 was for gambling. Marble Front Apartments, Harwood's, \$25.00 and \$15.00 each, was for prostitution, operated by Babe Kelly, one of the defendants.

MR. BANDELIN: I move that that testimony be stricken on the grounds heretofore stated.

THE COURT: Denied.

WITNESS NEEDHAM (Continuing) M. F. Lagore, \$35.00 was for gambling. Mrs. Andy Hill, \$20.00 was for beer; I collected it. Josephine Pnazza, \$20.00 was for beer; I collected that. Anna Tornberg I did not collect. Mary Morland, \$25.00, for beer and I collected it. Wm. Headlund \$25.00 for place where he sold whiskey. Mullan Inn, \$25.00, was for booze; operated by John Rantella.

Q. John Rantella. And the next is "Mom-nie (Co-

bin) Harwood's, \$25.00 and \$15.00 each, 226 Hunter Avenue," what does that mean?

A. That is for a house of prostitution.

Q. Did you collect there?

A. Not at that time, but I did later.

A. Yellowstone Cigar Store, \$35.00 is for gambling, operated by Charles Hartley and Gus Aro.

Q. The defendants named in this case.

MR. BANDELIN: At this time I ask that that be stricken on the ground it does not prove or tend to prove any issues charged in this case.

THE COURT: Motion is denied.

MR. RAY: You used the phrase "Beer section" of Mullan. What did you mean by that.

A. I meant by that the places outside of the main streets, that is, the two business blocks. By the "Main stem", I meant where they had an open bar similar to the old time licensed saloons. The soft drink licenses were delivered monthly for places in the business section and the subscriptions for liquor taken from the beer section were from the residential part. I know Charles Anderson, commonly called Chuck Anderson. When I was chief of police he was working at the Mullan Inn and the Bilberg Hotel. The Mullan Inn was a liquor dispensary. Do not know that I saw him dispensing any liquor there, but have seen liquor dispensed there many a time. He was a bartender there. The Bilberg sold moonshine, beer and soft drinks. Anderson was tending bar there. Charley Fond was running it. He is a defendant in this case. Roy Appleton, defendant

in this case, was running the Central Hotel bar; Gus Aro was running the Hunter Hotel and also the Yellowstone Cigar; it was a liquor dispensary and the Hunter Hotel also. William Coughlin, commonly known as Blacky, defendant in this case, ran the Bolo, a liquor dispensary and gambling. I collected for gambling from the Bolo as well as furnishing licenses. Charles Fond, the defendant in this case, was at the Bilberg Hotel and associated with the Mullan Inn; the Bilberg was a liquor dispensary; I collected for gambling from the Bilberg. I know Curley Gardner; he was tending bar at the Central Hotel and Mullan Pool Hall, liquor dispensaries. I know Frank Hahn; he was running the Marble Club and the Rockford Cigars, liquor dispensaries. Charlie Hartley had a liquor dispensary at the Mullan Pool. John Jaskara was bartender at the Yellowstone Cigar, a liquor dispensary. Walter Johnson was one of the owners of the Hunter Hotel, a liquor dispensary. He is a defendant here. Mike Kennedy, a defendant here, ran a pop corn stand and liquor dispensary. I issued him a license for soft drinks. Babe Kelly, defendant here, was in the Marble Club first and then the Coffee House, the Coffee Cup and later back to the Marble Club. She was running a house of prostitution and liquor dispensary. I did not issue her a license, but I did collect from her. I know Mona McDonald. She was at the Coffee House and Rex Rooms, conducting a house of prostitution and a liquor dispensary. I collected from her. James Normile, one of the defendants here, was working at the Miners'

Club, a liquor dispensary. Waino Pikkerainen, one of the defendants here, was with Frank Hahn in the Marble Club and the Rockford Cigars, liquor dispensaries. Joe Speck, defendant here, was bartender in the Mullan Pool Hall, a liquor dispensary. Bertha Strom, a defendant here, was in the Fern Apartments, conducting a house of prostitution. She got a soft drink license from the city clerk, but no liquor dispensary there to my knowledge. Agnes West was manufacturing and selling beer from her residence. I collected from her once. She is a defendant here. She thought she should not pay as she had a crippled husband and helped to elect the council. At a council meeting when Harwood, Wheatley, Ristau and Huston, defendants in this case, were present, I took it up with the council. Mr. Huston wanted to let her go without paying, saying she was one of his friends, and he thought he ought to do something for his friend. The other members objected, saying that all should be treated alike, and agreed that she should pay \$10.00 instead of \$20.00, and I collected from her, and they let her off with a payment of \$10.00. I collected from Regina Dalo, one of the defendants, who was selling and manufacturing beer at her residence. Jimmie Ryan was running a house of prostitution.

MR. WALKER: On behalf of Jimmie Ryan, I ask that that testimony be stricken on the ground it does not tend to prove or disprove any matter in issue so far as this indictment is concerned.

THE COURT: I will reserve the ruling on it and

unless a connection is made, counsel may renew his motion.

MR. RAY: I now offer plaintiff's Exhibit No. 2 in evidence. Counsel have examined it.

MR. NUZUM: On behalf of Weniger and Bloom, I object to it as incompetent, irrelevant and immaterial.

THE COURT: The objection to the introduction will be overruled. I will take care of it so far as it may affect anyone who is not included in it.

Plaintiff's Exhibit No. 2 is as follows:

Mullan, Idaho, May 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, Idaho, is \$400,123.00, and a levy of Fifteen (15) mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6000.00; and,

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names:

NAME	DATE	AMOUNT
Stevens Hotel	May acct.	\$10.00
Lee Bill	June 1st '27	40.00

Louie Zodmeznik	June 1st	(10.00
Teka Padhala	\$20.00	(10.00
Eugene Kringo	June 9th	(10.00
City Dairy	\$31.50	(1.50
Mike Kaley		(10.00
Yellowstone		(10.00
Bolo		Pd. (10.00
Thereza Keller	June 15th	(15.00
L. A. Coglas	\$45.00	(20.00
Mary Moreland		(25.00
Mrs. J. P. Ainsworth	June 16th	(25.00
	\$50.00	
Lee Burns		30.00
Mullan Water Works		40.00
Mike Conovich (Transferred to July 1st, List—J.L.M.)		25.00

Received 7-15-27

On Back of Paper—6-11-'27

Subscriptions to

The General Fund

For May \$20.00

For June \$186.50

Mullan, Idaho, May 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trus-

tees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names:

NAME	DATE	AMOUNT
Wm. Hedlund		\$25.00
Mrs. J. P. Ainsworth		25.00
Cash		Pd. 25.00
Mrs. W. H. Knudson		
By Chas. Hartley JM		
Mullan Pool Hall		Pd. 25.00
Miners' Club		Pd. 25.00
Muckers' Club		Pd. 25.00
M. S. LeGore		Pd. 35.00
Chas. Fond		35.00
Josefin Pinazza		25.00
Mary Smythe		20.00
Cash		25.00
Central Hotel	May 28th	Pd. 35.00
Mullan Inn		Pd. 25.00
Mrs. Olka Wickman		10.00
Mrs. Amanda Beck		10.00
Aug. Flink		5.00
Mrs. Ida Anderson		10.00

Mrs.....	20.00
Miss Perl Johnson	45.00
Yellowstone	25.00
Arthur Rumpel	1.50
A. Anderson	2.00
Jack Swanson	15.00
Forward from May 1, Sheet No. 2—	50.00
	<hr/>
	\$513.50

On Back: 5-31-'27
 Current Fund
 Subscription Collections
 Filed May 31, 1927
 J. L. Martin, Treas.

Mullan, Idaho, June 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily

contribute to the General Fund of said Village, the sums set opposite their respective names:

NAME	DATE	AMOUNT
Central Hotel	June 27th	\$35.00
M. F. LeGore		35.00
Josefine Pinazza		25.00
Chas. Fond		35.00
Aug. Flink, \$5; Eugene Mingo, \$10	145.00	15.00
Cash		35.00
Mrs. Anna May Eckel		7.00
Mary Morland		10.00
Mullan Pool Hall		87.00-35.00

232.00

Lee Burns 5.00

Pd. July 5, 1927

J.L.M.

On Back:

6-30-'27

Subscriptions for

June, 1927—General Fund, \$232.00

Mullan, Idaho, July 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Marble Club		(\$35.00
Miners' Club		(35.00
W. E. Coughlin		(35.00
Muckers' Club	\$130.00	(25.00
Lela M. Mackin	7-7-'27 JLM	15.00
Lee Burns (Transferred June List, July 5th		25.00
F. V. H.		25.00
Mrs. J. P. Ainsworth	130.00	40.00
Mike Canovich (Transferred J.L.M.)		
	7-18-'27	25.00
	J.L.M	130.00

(Entered on June List and Transferred)

Lee Burns	Dep. 18th and 21st	55.00
Joe Murphy	By. M. D. Needham	25.00
	as per Dep. Slips	—————
	by Needham	
	\$ 80.00	
	130.00	
	130.00	
	—————	
	340.00	

Red Ink

\$784.69

On Back

7-27-'27

Subscriptions for General Fund

\$340.00

Filed July 27, '27—J.L.M.

Mullan, Idaho, Aug. 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by the Law will be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Mary Moreland	Dep. 7-28-27	(\$20.00
Josefin	\$115.00	(25.00
M. F. LeGore	Entered for J.L.M.	(35.00

Chas Fond	Aug. acct. J.L.M	(35.00
Swanson	Entered for July acct.	
	Dep. 7.29-27, J. L. M.	10.00
Cash	Dep. 8-6-28, J.L.M.	(35.00
Mrs. Anna May Eckel		(25.00
<hr/>		
Eugene Mingo		(10.00
John Knudifson		(15.00
Lela Mackin	Dep. 8-13-27	(25.00
Yellowstone Cigar Store	\$132.50 J.L.M.	(35.00
W. Pikkerainen		(35.00
Mrs. Anna May Eckel		(12.50
H. E. Coughlin		(35.00
Mrs. J. P. Ainsworth		(25.00
K. M. Stark	Dep. 8-16-27	(25.00
Lee Burns	\$140.00, JLM	(55.00
On Back:		
8-16-27		
Volunteer Sub. to General		
Expense Fund.		
J. L. Martin, Clerk.		

Mullan, Idaho, Aug. 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue pur-

poses, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
	Aug. 23	(\$15.00
Bill Clark, Transferred from License		(
Josefin Pinazza		(25.00
Mary Moreland		(25.00
M. F. LeGore		(35.00
Mrs. Dan McGermin		(10.00
Amanda Beck		(5.00
	- - \$157.00	(
Chas. Fond	Dep. 8-30-27	(35.00
Peg	J. L. M.	(7.00
		<hr/>
Cash		(35.00
	\$47.50	(
Mrs. Anna Eckel	D—	(12.50
	J.L.M.	
	\$492.50	
	104.50	
		<hr/>
	\$597.00	

8-31-'27

General Sub. Fund

Filed

J. L. Martin

Mullan, Idaho.....1927

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Eugene Mingo		(\$10.00
Domingo Labala	9-18-27	(10.00
Hunter Hotel	Dep. \$70.00	(35.00
	J.L.M R.M.M	
Mike Canavich		(15.00

W. E. Coughlin		(35.00
Marble Club		(35.00
Flink	9-14-27 140-	(5.00
Ray	J. L. Martin	(25.00
June De Manse	R.M.	(15.00
Mrs. Dot Ainsworth		(25.00
Lee Burns		(25.00
Dan McGinnis		(10.00
Mary Moreland		(40.00
Geosefin Pinazza		(15.00
Amanda Beck		(5.00
Cash		(15.00
Ana Bell	7-27-27	(25.00
Olga Hutchison	\$140.00	(5.00
	Dep.	
	J.L.M.	

On Back

Sept. 1927

Mullan, Idaho, Sept. 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and

maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash		(\$25.00
M. F. LeGore	9-28-27 9-29-27	(35.00
Cy Forsythe	\$130.00	(35.00
	J.L.M.	(35.00
Jack Swanson		5.00
(Transferred to Oct. Acc.)	J.L.M.	

Oct 1, 1927-

Checked J.N.- Entered
and Filed

Mullan, Idaho, Oct. 1, 1927

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and

maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT	
Jack Swanson, (transferred from		(\$10.00	
Sep. Acc.		(5.00	\$15.00
The Hunter-W. Johnson		(35.00	
Cash for Sept.	Dep. 10-8-27	(35.00	
Eugene Mingo	\$85.00 J.L.M.	(10.00	
Rose Mackin		(25.00	
Yaballa		(10.00	
W. Pikkerainen	Dep. 10-14-27	(35.00	
Cash	\$95.00 J.L.M.	(25.00	
Cash, West		(10.00	
<hr/>			
Bol Cash		(35.00	
Macki		(10.00	
Lee Burns		(25.00	
Mona Mc		(15.00	
Irene		(15.00	
H. F.		(25.00	
Jeosefin Pinazza		(20.00	
M. F. LeGore		(35.00	
Helen		(15.00	
Mary	Dep. 10-29-27	(25.00	

Bill	\$335.00	(15.00
Chas. Fond	J.L.M.	(35.00
Central Hotel		(35.00
Swanson		(10.00
Lewey Coglis	Dep. 10-31-27	(20.00
Ray Mackin	\$25.00	(25.00
	J.L.M.	

On Back

Oct. 29, 1927

October General Fund

Collections

Filed

J. L. Martin, Treas.

Mullan, Idaho, Nov. 1, 1927

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily

contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash for Oct.	Received	(\$35.00
	11-4-27	(
	J.L.M.	(
Hunter Hotel		(35.00
Eugene Mingo		(10.00
Sabala		(10.00
June De Manise		(25.00
Marble Club	Received	(35.00
W. H. Coughlin	\$125.25	(35.00
Cash	11-14-27 J.L.M.	(10.25

Cash		(25.00
McDonald	Received	(12.50
Lee Burns	\$62.50	(25.00
Cash	11-21-27 J.L.M.	(35.00
	(transferred to Dec. List) J.L.M.	
On Back		
Nov. 30, 1927		
Subscriptions		
General Fund		

Mullan, Idaho, Nov....., 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is

\$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
H. V. F.		\$25.00
Bill Clark		(15.00
Chas. Fond	Received \$215.00	(35.00
Central Hotel	Nov. 29, 1929	(35.00
M. F. LeGore	J.L.M.	(35.00
Josefin Pinazza		20.00
Yellowstone Cigar		35.00
Cash		5.00
Cash		10.00
Mary Moreland	Received \$30.00	(20.00
Cash	11-30-27 J.L.M.	(10.00
Nov. 30, 1927	2 P.M.	
Subscriptions		
To General Fund		

Mullan, Idaho, Dec. 1, 1927.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash (Nov. List)		(\$35.00)
Hunter		(35.00)
June DeMause		(25.00)
Louie Cogles		(20.00)
Cash	Received	(5.00)
Mingo	\$154.00	(10.00)
Sabala	12-7-27 J.L.M.	(10.00)
Ray Mackin		(14.00)
<hr style="width: 20%; margin-left: auto; margin-right: 0;"/>		
Ray Mackin		(11.00)
Maeri		(10.00)
Hellen		(15.00)

W. E. Coughlin	Received	(35.00
Babe Kelly	\$106.00	(25.00
Lee Burns	12-20-27 J.L.M.	(10.00
<hr/>		
Cash		(10.00
Evelyn Stevens		(15.00
Josefin Pinazza		(20.00
Mary Norman		(20.00
M. F. LeGore		(35.00
Cash		(15.00
Central Hotel		(35.00
H. V. F.		(25.00
Cash		(10.00
Lee Burns	Dec. 29, 1927	(15.00
Chas. Fond	\$252.50	(35.00
Jack Swanson		10.00
Cash	Two Hundred Fifty-two fifty cents R.M.M. for J.L.M.	(7.50
Dec. 28, 1927		
Subscription to General Fund		

Mullan, Idaho, Jan. 1, 1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by

the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash	Jan. 4 Pd.	(\$35.00
Mingo		(10.00
Sabella		(10.00
Hellen	Received \$115.00	(15.00
Ray Mackin	Jan. 12, 1928	(25.00
Cogles	J.L.M. by R.M.M.	(20.00
Hunter Hotel		(35.00
A. H. Hyland		(35.00
W. E. Coughlin		(35.00
Yellow Stone Cigar Store	Rec'd. \$146.00	(35.00
Macri	Jan. 14 '28	(6.00
	J.L.M.	
Babe Kelly		(25.00
Bell	Received	(7.50
Clara Hawkins	Jan. 24, 1928	(15.00
Hellen F	\$57.50 J.L.M.	(10.00
Josefin Pinazza		(15.00

Chas Fond		(35.00
M. F. LeGore		(35.00
Central Hotel		(35.00
Mary Moreland		(20.00
Cash		(10.00
H.....	Received	(25.00
Bill	Jan. 30, 1928	(10.00
Cash	\$205.00	(20.00
	J.L.M.	

(On Back)

Jan. 30, 1928

Subscriptions to
General Fund

Mullan, Idaho, Feb. 1, 1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by the Law will be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily

contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash	2-2-28	Pd. (\$35.00
Mrs. West	Received	(10.00
Mingo	Feb. 6. '28	(10.00
Sabala	J.L.M. \$65.00	(10.00
W. E. Coughlin		(35.00
Hunter Hotel		(35.00
A. H. Hyland	Received	(35.00
Ray Mackin	\$145.00	(25.00
Hellen	2-14-28	(15.00
	J.L.M.	
Cash		(25.00
Joe Urquidi		(10.00
Chas Fond		(35.00
Jiosefin Pinazza		(15.00
Central Hotel		(35.00
H. V. F.		(25.00
Cash		(7.50
Helen		(10.00
M. F. LeGore	Received	(35.00
Mary Moreland	\$272.50	(20.00
Cash	2-29-28	(10.00
Hellen	J.L.M.	(25.00
Swanson		(10.00
Anna		(5.00
Flink		(5.00

\$ 65.00

145.00

272.00

482.00

(On Back)

2-29-'28-

Sub. General Fund-
For Feb. 1928

Mullan, Idaho, 3-1-1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by the Law will be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash	3-5-28	Pd. (\$35.00)

Mingo	Received \$55.00	(10.00
Sabala	3-5-28 J.L.M	(10.00
Ray Mackin		(25.00
Hunter Hotel		(35.00
W. E. Coughlin		(35.00
Betty		(4.00
Anna		(15.00
Helen		(10.00
Betty	Received \$200.00	(11.00
Babe	3-24-28 J.L.M.	(25.00
Cash		(20.00
Cogles		(20.00
A. H. Hyland		(15.00
M. F. LeGore		(35.00
Chas. Fond		(35.00
Mary Moreland		(10.00
Central Hotel	Received	(35.00
Cash	\$180.00 3-31-28	(10.00
Cash	J.L.M.	(25.00
Josaphine		(15.00
	\$ 55.00	
	200.00	
	180.00	
	<hr/>	
	435.00	

(On Back)

3-31-'28

March Voluntare
Subscriptions to
General FUND

Mullan, Idaho, Apr. 1, 1928

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by Law to be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash		Pd. \$35.00
Mingo		10.00
Sabella		10.00
The Hunter Hotel		35.00
Chas. Fond		35.00
M. F. LeGore		35.00
Central Hotel		35.00
Ray Mackin		25.00
H.		(25.00
Freda	Received	\$389.50 (15.00
Mary Moreland	Apr. 30, 1928	(10.00

Joe Murphy	J.L.M.	(25.00
W. E. Coughlin		35.00
Jury		7.00
Dorothy		7.50
Cogles		20.00
West		10.00
Cash		5.00
Cash		10.00
Cash		15.00

Received \$15.00

Apr. 30, 1928 J.L.M.

\$389.50

15.00

404.50

(ON BACK)

April Subscription
to General Fund

-1928-

Mullan, Idaho, May 1st, 1928

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$400,123.00, and a levy of Fifteen (15) Mills, which is the maximum levy permitted by the Law will be made by the Trustees of said Village for general revenue purposes, will produce approximately but \$6,000.00; and

WHEREAS, It requires considerably more than

that sum to conduct said Village Government and maintain the Streets, Bridges and Sewers therein;

THEREFORE, The undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government hereby Voluntarily contribute to the General Fund of said Village, the sums set opposite their respective names, to be used for said maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash		(\$35.00)
Mingo		(10.00)
Sabella		(10.00)
Josaphine		(15.00)
Hunter Hotel	Received \$255.00	(35.00)
Bolo	May 14, 1928	(35.00)
Babe	J. L. Martin	(25.00)
A. H. Hyland		(35.00)
Dorothy		(15.00)
Barney		(15.00)
Ray Macklin		(25.00)
H. V. F.		(25.00)
Central Hotel		(35.00)
M. F. LeGore		(35.00)
Jeosefin Pasulin		(15.00)
Mary Moreland	Received \$210.00	(10.00)
West	May 31, 1928	(10.00)
Mingo	J.L.M.	(10.00)
Chas Fond		(35.00)
Kate Peterson		(25.00)
Cash		(10.00)
		\$465.00

(On Back)

May 31st, 1928

Sub. General Fund

For May 1928

Mullan, Idaho, June 1, 1928

TO WHOM IT MAY CONCERN:

WHEREAS, The Assessed Valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$445,552.25 and a levy of 15 Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for general revenue purposes, will produce approximately, \$6,500.00, and

WHEREAS, it requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein, now

THEREFORE, the undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntary contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of said Village Government:

Rec. \$35.00 6-4-28 J.L.M.

NAME	DATE	AMOUNT
Cash	6-1-28	(\$35.00
Sabella		(10.00
Bolo		(35.00
Leona		(15.00
Babe		(25.00

Barney		(15.00
Ray Mackin		(25.00
Rose	Rec. \$177.50	(7.50
Hunter Hotel	6-14-28	(35.00
Cash	J.L.M.	(10.00
Cash		(25.00
Rose		(7.50
Chas Fond		(35.00
Josefin Pasulin		(15.00
Mona McDonald		(15.00
Mary Moreland		(10.00
M. F. LeGore	Rec. \$177.50	(35.00
Cash	6-29-28	(10.00
L. Cogles	J.L.M.	(20.00
Cash		(5.00
	\$ 35.00	
	177.50	
	177.50	
	<hr/>	
	390.00	

(On Back)

6-30-28

June Sub. To

General Fund-1928-

Mullan, Idaho, July 1, 1928

TO WHOM IT MAY CONCERN:

WHEREAS, The Assessed Valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$445,552.25 and a levy of 15 Mills, which is the maxi-

imum levy allowed by law to be made by the Trustees of said Village for general revenue purposes, will produce approximately, \$6,500.00, and

WHEREAS, it requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein, now

THEREFORE, the undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntary contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash	July 3rd	(\$35.00
Cash		(20.00
Cash		(10.00
Bolo		(35.00
Cash	Received \$207.50	(7.50
Hunter	July 14, 1928	(35.00
Ray Mackin	J. L. Martin	(25.00
Babe		(25.00
Barney		(15.00
Margurite		(7.50
Coffee House to July 4	Recd. \$52.50	(25.00
Mona Mc.	July 18, 1928 J.L.M.	(10.00
Cash		(10.00
H. V. F.		(25.00
M. F. L.		(35.00
Mary Norman		(10.00
Jerry Davis		(7.50
M. F. H.		(25.00

Jiosephin		(15.00
Chas Fond		(35.00
Cash by West		(10.00
Cash	Received \$177.50	(5.00
Macri	July 30, 1928	(5.00
Monia	J.L.M.	(5.00
		<hr/>
		\$437.50

(On Back)

July 31, 1928

July Subscription

To General Fund

Mullan, Idaho, Aug. 1, 1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The Assessed Valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$445,552.25 and a levy 15 Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for general revenue purposes, will produce approximately, \$6,500.00, and

WHEREAS, it requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein, now

THEREFORE, the undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntary contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash	8-1-28	(\$35.00
Bolo		(35.00
Hunter Hotel	Received \$130.00	(35.00
Mona McDonald	8-15-1928	(15.00
Cash	J.L.M.	(10.00
Jiosefin Panazza		(15.00
Pastime		(25.00
Coffee Cup		(12.50
Chas. Fond		(35.00
The Hub		(25.00
Mary Norman		(10.00
N. V. F.		(25.00
Jerry		(15.00
M. F. LeGore		(35.00
Cash		(10.00
Cash		(10.00
Cash	\$247.50	10.00
Jimmie Ryan	—————	(15.00
Cash	377.50	(5.00
(On Back)		
9-1-28		
Aug. Cash Sub.		
To General Fund		

Mullan, Idaho, Sep. 1- 1928

TO WHOM IT MAY CONCERN:

WHEREAS, The Assessed Valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$445,552.25 and a levy 15 Mills, which is the maxi-

sum levied by law to be made by the Trustees of said Village for general revenue purposes, will produce approximately, \$6,500.00, and

WHEREAS, it requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein, now

THEREFORE, the undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntary contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of said Village Government:

NAME	DATE	AMOUNT
The Hunter Hotel		(\$35.00
Coffee Cup		(27.50
Cash		(35.00
Cash	Recd. this	(10.00
Bolo	account—J. L. Martin	(35.00
Cash	\$162.50	(20.00
Jiosefin		(15.00
Coffee Cup		(32.50
H. V. F.		(25.00
Mary Moreland		(10.00
Jimmie Ryan		(25.00
Chas. Fond	Received \$217.50	(35.00
Cash	to Sep. 29, 1928-	(10.00
Macri	J. L. Martin, Treas.	(5.00
Cash		(5.00
Evalin		(10.00

M. F. Legore Store	(35.00
West	(10.00
(On Back)	
9-29-'28	
Subscriptions to	
General Fund	
Sept. 1928	

Mullan, Idaho, Oct. 1, 1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The Assessed Valuation of the Village of Mullan, County of Shoshone, State of Idaho, is \$445,532.25 and a levy 15 Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for general revenue purposes, will produce approximately, \$6,500.00, and

WHEREAS, it requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein, now

THEREFORE, the undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntary contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of said Village Government:

NAME	DATE	AMOUNT
Cash	Oct. 10th, 1928	(\$35.00
Cash		(25.00

Hunter Hotel	Hunter	(35.00
Bolo		(35.00
Mingo	Received \$150.00	(10.00
Coffee Shoppe	10-15-28	(7.50
	J.L.M.	
Cash		(7.50
Frank Windes		(12.50
Marjery		(7.50
Joesfin		(15.00
Coffee Cup		(25.00
Evelyn Stevens		15.00
H. V. F.		(25.00
D. Connelly		(35.00
June DeMouse		(7.50
Mary Norman		15.00
Chas. Fond		(35.00
M. F. LeGore	Paid	(35.00
Jimmie Ryan		25.00
Babe Kelly	Received \$300.00	(25.00
Coffee Shop	10-30-28	(7.50
Cash	J. L. Martin	5.00
Cash by W.		(10.00
Nov. 21st Cash		(20.00
(On Back)		
Subscriptions to		
General Fund		
Oct. 1928		

WITNESS NEEDHAM: (Continuing) With reference to some of the people who did not want their names known, living in the residential section, whatever money they gave me I would write down "cash" or sometimes they would write it themselves. In other instances they signed themselves, in nearly all of the cases. I got these slips, Exhibit No. 2, from the Village Clerk, Mr. Martin. Exhibit No. 2, under date of May 1, 1927, "Mullan Pool Hall by Charles Hartley, \$25.00, T. D." means \$25.00 for privilege of gambling. Miners Club, same purpose. Muckers Club, \$25.00 for gambling. In addition to gambling, the Muckers Club was a booze dispensary; LeGore, \$35.00 for gambling; Charles Fond, \$25.00 for gambling in the Bilberg Hotel, also had a soft drink license. Josephine Pnazza, \$20.00 was for a license or permit. It was down below the depot in the residence section. Central Hotel, \$35.00 privilege for running gambling for that month. Mullan Inn, \$25.00, for gambling. Central Hotel and the Mullan Inn also paid a soft drink license and whiskey was sold there. Coughlin, \$25.00 for gambling in the Bolo, also had a soft drink license where whiskey was dispensed. Miners Club, \$25.00 for gambling.

Q. Now, why did you present this list each month just to the particular individuals rather than to the village generally as would indicate from the heading of this list, Mr. Needham?

MR. NUZUM: I think that is immaterial, if your honor please.

THE COURT: Overruled.

MR. NUZUM: Exception.

A. The first night after I was elected it was discussed about these collections in open meeting, and that list was spoken of, and these various places where they sold beer was spoken of also, and prior to my time, a great many of them had been—

MR. NUZUM: Just a moment, I don't know what this man can know about prior to his time.

MR. RAY: Q. You mean prior to the time you were chief?

A. Yes sir. How I know is because I have been in the office and saw the things come in there.

MR. NUZUM: I object to it as incompetent, irrelevant and immaterial. He could not know what other people were doing.

THE COURT: Overruled. If he knows of his own knowledge, he may testify.

Well, I do know that they came in and paid the Village Clerk. And at this meeting they designated that I should do the collecting. Four councilmen were present, Harwood, Wheatley, Ristau and Huston and Foss.

Q. Named in this indictment?

A. Foss instead of Huston. I went to these particular people because Harwood instructed me to. I solicited legitimate business houses. I visited Dr. Keys, who ran the Mullan Water Works, the Mullan light people, and Judelaws, that ran the dairy outside of Mullan. Keyes gave \$40.00, the light company promised \$1.00, but never paid, and Judelaw gave \$1.50. That

was not monthly; just once. I delivered nothing but a yearly soft drink license to any legitimate soft drink place in Mullan while I was Chief. This was to Mr. Harwood and some people that run the House of Quality, now the Dewdrop Inn, who were not to my knowledge dealing in liquor.

Mr. Harwood paid \$12.00 a year for each place and he had two and the other one paid \$6.00. I was discharged in November, 1928. I went over to the City Clerk's office afterwards and I went back and saw Harwood. I says, "Now, Mr. Harwood, you fellows have asked me to resign, so I will ask all of you to resign and we will call it square." He says, "Well, it might be well to do so." I said, "If you look at it from that light I am sure it will," and I says, "Now", I says, "if you don't I will spend the last dollar I have got in the world to have you fellows put out of here." I did not serve any more after November 9, 1928. None of these places of business paying license or subscription month by month were molested by me or any other officer of the village so far as I know while so paying. I only had one difficulty in collecting. That was with Mike Hahn. When Hahn did not pay he was arrested and later the money was paid by Pikkerainen, and he went back to his place. He was arrested for refusing to pay the license. There were two regularly employed police officers, myself and Welch, the defendant here, I have been with him to various places I have designated to you, that is, those that paid the soft drink license. They were run openly. The operators paid no concern to me or other officers who

went in. The night man did not interfere with the operations to my knowledge. I made no collections except those shown on the license and Exhibit No. 2. The proceeds were turned over to the Village Clerk and the amount and name of each individual appears on the list on the monthly report to each councilman. (Reading of Exhibit No. 2 to the jury was waived.) I attended a monthly meeting of the council regularly; do not think I missed a single one. At the meeting of the council the places dispensing liquor, prostitution and gambling were mentioned quite frequently. The council were surprised I was getting as much as I did. And I was also instructed to use my own discretion as to the amount I collected in outlying districts. If business was not very good, to cut down on the amount, and I governed myself accordingly.

The members of the council during my term of office were Harwood, Wheatley, Ristau, Huston and Foss. The council except Foss attended pretty regularly. I know Charles Bloom, the defendant. He has resided in Mullen about 23 years; might have been away a little of the time. During the last several years he has lived in Mullan. His home is there. He is deputy sheriff of Shoshone County. He was deputy sheriff while I was chief of police. I have seen Bloom quite a number of times during the period concerning which I have been testifying. He was in the places I have testified about, and while he was there they were carrying on their ordinary business. I have seen him in the Bolo, and I have seen him in the Bilberg and the Mullan Inn

and Mullan Pool Hall. I visited these places I have testified about almost daily while I was chief of police. They were not all operating continuously. Some closed down temporarily and the same general condition existed while I was chief of police of Mullan. I have made a note of how much I collected and it amounted to \$697.50 per month, for liquor, prostitution and gambling, both on licenses and Exhibit No. 2.

CROSS EXAMINATION

BY MR. POTTS:

A. When I was discharged I told Harwood I would have them put out of office if it costs me the last penny I got and takes the rest of my life. I did not tell them I would send them to the penitentiary if they did not reinstate me as chief. Since then I informed the government officials what was transpiring in Mullan and have helped them in every way possible to do it. I told Julius Johnson about the 20th of November, 1928. I told him I was going to have the trustees put out of office. My aim was to have them put out of office. I thought they had not done the square thing by me. I do not recollect saying that I was going to send Harwood and Huston to the penitentiary if it was the last act of my life. I do not recollect stating to Mr. Davis that if I was not reinstated as chief of police I would get even with Huston and Harwood even if I had to go to Washington, D. C. to do it. I would not say that I did not say it. I referred to the system carried

on while I was chief of police under my discretion as an officer which I exercised.

In some instances the amount I should ask was in my discretion, and I exercised it. I told the Board of Trustees at various times what I was doing. In fact every meeting it was laid out before them and they saw it and it was all explained to them and, as I said before, the Judge made a copy of what I was doing and each and every one of them was given a copy of this. I saw the copy. It contained the names of each individual from whom I collected except where it was marked cash. Each member of the council had a list containing the names and amount of each donation that I had collected. I turned in the names and amount every month to the clerk. With reference to the licenses the clerk issued those once a month and placed it in my hands to collect the money. The clerk issued the licenses under the ordinance. As to the donations I collected the clerk had no record of them until I turned them in to him. I went to see those who was on the donation list and got the people to donate, and if the people did not donate I passed them up, and I would go again next month to see if I could get them to donate and if they did, all right. Some times they had various reasons for declining. At the present time I do not remember a single individual who did not make some donations. I do not remember whether Charles Johnson was a member of the Board of Trustees and nominated Army Welch for chief of police or not. I thought he had resigned before that. There was a day and night policeman designated

in the office at Mullan and Welch was night policeman. He took me around to the various places. I do not remember how long we spent. I do not say in every instance you could tell where liquor was being sold or houses of prostitution being conducted when you walked down the street. You could not tell unless you go inside of the place when walking along the street. Might tell by drunks going in and out the place whether booze was being sold there. I got my information by using my sight and hearing and by smell. I do not remember which place we went first; do not remember how many places we visited; went into the Fern Apartments; by reputation that was a house of prostitution. Went to the Coffee House, a house of prostitution; went to the Bilberg Hotel, a booze dispensary; went to the Miners Club, a booze dispensary and gambling; Mullan Pool Hall. I had taken the oath of office before I became chief of police and I continued in that office for a year and a half knowing what the conditions were in Mullan, I do not know whether I built up the collections or not. I collected all the license money except one place. I never read the license ordinance of Mullan. I was instructed by the judge what the ordinance was; I mean Judge Martin. The first of the month he gave me the licenses written out, signed by him as Village Clerk. I delivered the licenses to the licensees. Some were paid directly. The yearly licenses I collected generally. Some peddlers got a license directly from the clerk. I collected from the dry goods, hardware, drug stores, telephone company, barber shops

and every line of business conducted in Mullan. I collected from Harwood. He had a soft drink establishment along with drugs. He had a soda fountain and sold pop. I do not know about the classification. It was my understanding that soda fountains was under a different classification than places where they dispensed booze. Every place in Mullan aside from Harwood's two drug stores and the Dewdrop Inn sold booze. I will not say that every pool room, pool parlor in Mullan was a booze dispensary. Not all of the gambling houses were booze dispensaries. Lagore's place was gent's furnishings, cigar and card room. \$35.00 was for gambling. No intoxicating liquors sold. \$35.00 on the contribution slip and the so-called soft drink licenses were issued to places they had doped soft drinks, which in fact were nothing short of booze dispensaries. I collected \$35.00 from Lagore; he ran a gent's furnishing store with card room attached. The \$35.00 was for gambling. He did not sell any liquor. I was there frequently; played cards myself. The games were gambling games principally poker and at times what they call "21" or Blackjack and some pinochle games were played with cards and chips, mainly among the miners. They lost their money to each other, but there were some professional gamblers. The house made a percentage which was pretty large. The profits went to the house. The population of Mullan on the streets was made up of men from the mines. The Morning Mine outside of the city limits employed 800; Gold Hunter about 150 and prospects around there employ-

ing men. Mining was the principal industry with all of the mines located outside of the village limits. A large number of the men were floating type without families. I believe, however, the majority had families in Mullan. The floating type were usually around the town during their spare time. I took up the question of Agnes West at the meeting of the village board of Mullan. I do not know of any record. I was present at all of the meetings of the council and do not remember of any record being read concerning Agnes West's matter. This matter came up in September, 1927, according to my best recollection. There was a controversy with Frank Hahn submitted to the council and I was instructed by Mr. Harwood and Mr. Wheatley not to permit him to open the place of business on the street and they instructed me to collect a license from him. He refused and I arrested him. A good many of the items on the subscription list were entered as cash items. They did not indicate from whom it was collected. The list dated November 1, 1927 has a cash item of \$35.00. Harwood was never apprised of that or any other member of the board. Another item of \$25.00 is the same condition. They went into the records and I was the only one who knew who made the payments.

CROSS EXAMINATION

BY MR. BANDELIN:

WITNESS NEEDHAM: Bertha Strom ran the

Fern Apartments, a sporting house; I did not make any collections from her at all. She got the license from the city clerk. So far as I know there never was any liquor dispensed there. I do not remember having any talk with her. The girls paid \$15.00 a month which I collected. Jimmie Ryan sometimes paid for some of the girls at the judge's office but not to me. The money was not paid for liquor and had nothing to do with the violation of the liquor law. She was running a sporting house. I made collections from her. The only thing I told her was I told her I wanted a certain amount of money from her. I do not remember when it was but she was there when I left and had paid monthly when she was there. I knew Babe Kelly. She was running the Marble Front; collected \$25.00 and \$15.00 for prostitution and also the privilege of selling beer and moonshine if they wished. I never talked with her with reference to the matter. I never discussed what the purpose of collecting the money was. I never discussed selling liquor. I knew Mona McDonald; collected from her for running a house of prostitution, and selling booze also. I never discussed with her the selling of liquor. I ordered her out of the country in August, 1928. In August, 1927 I met Babe Kelly and I says, "We might just as well have a settlement first as last or an understanding", and I told her if she wanted to stay it would be necessary for her to comply with the requirements the same as the other women did. That is all I said to her. I went into the rooms of the women, in and out of their houses every day. I did not know a girl named

Peggy and did not spend an hour or two with some of the other women in their rooms. I had no trouble with Mona McDonald on those grounds. I had no trouble with Babe Kelly. The Yellowstone was run by Gus Aro and I did not know his brother, Jaskara was running the place until he was arrested in June. The Hunters Hotel had approximately 18 rooms and Leauro Aro was running that part of the time. I know Gus Aro and Walter Johnson, had a contract with Judillarro where they were running the place. I do not know who was running it before that time.

CROSS EXAMINATION

By MR. WERNETTE:

Joe Speck never paid any money and Charles Anderson never paid any money. I saw beer in a keg or barrel at Agnes West's and a bottle setting along side. I never saw her sell any beer. In June, 1927 I asked her for a donation and told her the council expected all who were handling beer to make contributions about alike. Showed her the list that Harwood gave me, Plaintiff's Exhibit No. 1 with the names on the list and the amounts opposite their names. I showed her the other lists. I discussed the list with her. We were alone. She never signed the list. I wrote "cash by West" in every instance; do not remember how often she paid. I know that her husband was an invalid and had to be taken care of as a child and that she was taking care of him, and she said she did not feel that she should pay

for that reason. I went there several times before I got money and \$10.00 is the most she ever paid and that was infrequently. I never closed a place because they did not pay. I merely solicited the same as I did with Mrs. West. Harwood, Wheatley, Ristau and Huston were present at the meeting when her matter was discussed. Mr. Huston said her husband was an invalid, was not able to walk and had to be taken care of like a baby and he did not think the council should ask either Mr. or Mrs. West for a contribution. He said she was a friend of his and that the council should be entitled to aid their friends. I have no feeling toward Mrs. West. I do not like her brother Mr. Anderson and had some trouble with him when he was arrested. I do not know what became of the case. Frank Hahn was in the Marble Club in 1927 and changed to the Rockford Cigar and I made collections from him. Pikkerainen was interested with him. I collected from both. I do not know where Hahn was when I collected from Pikkerainen. Hahn was not there when Pikkerainen paid. We discussed the license; I did not have any talk with Hahn about handling liquor. I did ask about gambling from Pikkerainen and Hahn both; that was in the summer of 1927. I saw gambling at the Bolo. I did not have any talk with Mr. Coughlin about liquor transactions there. In June he was fixing up the Bolo to open the bar about July 4th and he asked what the license was; what would have to be paid for them in order to get a soft drink license. I never went behind the bar to see what they were handling I never bought

a drink. I have seen sales over the bar, dozens of times between July 4, 1927 and October, 1928; practically every day in all of the liquor places. I did that to keep cases on the fellows who were drinking and see how drunk they were getting.

CROSS EXAMINATION

By MR. NUZUM:

I saw Bloom frequently in Mullan. His family lived there and I had occasion to call him by calling his residence. I did not keep any record of how much of the time he was there. He was a deputy sheriff. I do not know about his being a jailer. I saw him every few days. He was the deputy sheriff in that section of the country. I do not remember how many times I called him when I was chief of police. It was several times. Do not know what he was wanted for. I do not know how many times I saw him at the Bilberg, perhaps several times. He was sometimes talking with the boys, sometimes he would be drinking a glass of beer. I do not know whether it was near beer or genuine beer. I have seen him looking for people there with papers and processes to serve; do not know how many times when I saw him there he had papers to serve; do not know whether he had them all of the time he was there. I have seen him drink, what I thought was moonshine whiskey and his breath would indicate he had drunk it. I do not know the exact number of times but it was several times. I was in condition so I could detect the

odor of moonshine. I had not drunk myself. I have drunk moonshine in small quantities. Since prohibition went into effect I have not drunk as much at one time as would be termed an ordinary drink of whiskey; simply to satisfy some fellow who claimed his moonshine was good. I saw Bloom in the Bilberg more than once and on the street; saw him in the Bilberg several times; would not give an instance; cannot state the date. In most instances Charlie Fond was there but I would not name anyone else. Charlie Fond was drinking with him more than once. I do not know whether it was half a dozen times. I have no dates. It was during my tenure in office. I do not remember the first or last time, but it was after the first of May, 1927 and before the 9th of November, 1928 and that is as near as I can fix it. I do not remember any other individual than Charley Fond who was there. I saw him at the Bolo during the time the Bolo was opened up; after Coughlin went there in July until I got off the job. I did not see him drink there. I did not see any liquor sold in his presence. The Bolo was frequented by men generally. I do not know whether he was there on business or not. I would not place him at the Mullan Pool Hall. I saw him at the Mullan Inn and also in the pool hall. I do not remember the times. He just came in and out; did not take a drink. I would not say whether or not liquor was being sold when he went in. In the pool hall I only remember once after I was off the job as police; I do not know his business there. I am fifty-three years old, married; just have a wife; married Aug-

ust, 1918 and lived with wife all of the time. I have worked as a prospector and also as a policeman; started prospecting in 1889. I have been in the Mullan country since 1905. I never had engaged in liquor business; never did; never engaged in gambling as a business; I never have been a gambler or saloon man or bootlegger; have always been a law abiding citizen. I took the oath of office that I would uphold the laws of the nation, state, county and the village and was sworn by raising my hand. I did not understand what the laws of the state were with reference to the liquor traffic at the time I took office.

Q. Did you think that the laws of the State authorized the open selling of booze?

A. I did not know just what the laws were until the time I took office.

Q. Didn't you know that Idaho had declared a bone dry law before the Volstead Act was passed?

A. I knew there was a dry law that went into effect as I remember in 1915.

Q. Now, what do you mean by dry law—as affects liquor or what?

A. Well, you would naturally suppose that it affected liquor.

Q. Then you did know there was a bone-dry law in Idaho, didn't you?

A. I said I did not know the substance of this law or wording of it, is what I meant.

Q. You knew that the traffic in liquor was prohibited in Idaho—

A. Before the Volstead Act.

Q. So that you knew that it was unlawful to sell liquor under the state law.

A. But what had transpired since that time I did not know until I read the law in the statute books that was provided in the Village and then I learned what the law really is.

Q. When did you learn that?

A. After I got in as policeman.

Q. How soon?

A. It was within the first fifty days.

Q. Within the first fifty days. You know that there was such a thing as a Volstead Act?

A. I did.

Q. And you knew that prohibited the traffic in liquor?

A. I did.

Q. Did you have any qualms of conscience when you were going to those people and you were collecting license fees for them to violate the Volstead Act and the state law; did it bother you at all?

MR. GRIFFIN: Objection; that is immaterial.

THE COURT: Overruled.

MR. NUZUM: Q. Did it bother you at all?

A. It did not bother me, no, because the same conditions existed there before I went there.

Q. Go on, finish your answer.

A. The same conditions had been going on before I went on and I when I was asked to do this, I made up my mind then and there that I would save what evi-

dence I had and the first government official that came along I would tell them what was really happening in the Town of Mullan.

Q. Then you were doing this not because you thought the law had been violated before and it was all right to do it now, but to get evidence, was that it?

A. Well, I saved all the evidence or the principal evidence that I thought—

Q. Please answer my question. You were doing this to accumulate evidence for any government official that might come along?

A. I intended to save that, yes sir.

Q. You were doing that then, I want to be fair with you—

A. All right.

Q. (Continuing)—and not because you thought it had been the practice and allowable but to get evidence?

A. I expected that sooner or later that this would be blown up.

Q. Will you please answer that question. I think, if your honor please, I am entitled to it.

THE COURT: Yes, I think that question is capable of a more direct answer. Read it, Mr. Deavitt, please. (Question read) Answer the question.

“A. Well, I was just trying to get it just the way—I had in mind that I was going to do what was asked of me and the first government official that came along I was going to give him the evidence, which I did”.

I was not going to turn over the evidence to the government unless I was asked. I would not have done

it of my own accord and if I had not been requested I never would have done it. After I was discharged I told the council that I would go to Washington, D. C. with the information if necessary, and I did intend to give it whether they asked me or not. The thought came to me when I was discharged that I had made up my mind positively I was going to do that. I had given the information to Julius Johnson prior to my discharge. My discharge made me active instead of dormant. I resented the discharge because I did not think I deserved it.

Q. Did you want to continue on in that violation of the law yourself?

A. Not necessarily.

Q. You know it was necessary if you continued in collecting the money for what you say was for the privilege of selling booze; you knew that, didn't you?

A. I knew that it was a violation of the law, yes sir.

Q. And did you want to continue in the violation of the law?

A. Well, I would have stayed my term out if I had not been discharged, but I would not have asked for it again.

I have known Julius Johnson since June, 1927. Met him at a raid in Mullan; I did not show him the list dated May 1, showing the contributors. I do not know whether I had the list, but I knew where it was. I told him of the practices we were conducting there. I told him I had the list given by Mr. Harwood, Exhibit No. 1, and I told him that we were collecting licenses from

different booze dispensaries. I did not think it was necessary to show this list to Johnson. I told him about it and if he wanted to see it I would have proceeded to show him.

Q. "Did Johnson tell you to go on and make these collections?"

A. He did not say anything about it, no," and I kept on making these collections until 1928. I knew it was a violation of the law.

Q. "Well, as a law abiding citizen and a man of a family, I say did that bother you, bother your insides at all?"

A. Insides? Well, I just figured that when the time came, why, I would give this information to the government." I did not ask any immunity from any one. I do not know whether I knew it or not, if I went before the grand jury that would give me immunity. I have been told but I have seen since then a ruling or an article in the paper coming from the Attorney General that there is a law to that effect, but I did not know it at that time. I did not know if they used me as a witness that I would not be prosecuted. I knew that before I went before the grand jury, but I had given all the information I had prior to that time. They did not ask me if I would testify before the grand jury. They did not place me under arrest or under bond. I have not been confined today. I have not been prosecuted. I have not been paid anything except my witness fees. Cooper, the government agent, told me if I went along and the still was captured I could possibly get com-

pensation for my efforts. This was in June of this year. I was on the petit jury in November, 1928. I did not give any information with reference to the situation in Mullan although I already been fired.

CROSS EXAMINATION

BY MR. REED:

Charlie Johnson paid \$25.00 per month to me for the Bilberg. He was supposed to own it. He had bought the building under contract in 1925. I have handed Johnson a license a number of times. The soft drink license for one month; no mention of liquor on the license. I know Curley Gardner at the Central Hotel. He paid license once at the Mullan Pool Hall. for Charles Hartley. Hartley was in jail. I did not talk with Gardner about him running the place for himself. He ran gambling at the Central. Appleton was at the Central running the place. That included gambling and the bar. I do not know whether Herman Arbliss ever paid any money. I knew nothing about a license in his name. I talked with Charles Fond myself; never discussed what the license was for; never discussed with Appleton what the license was for and the licenses were delivered so far as the description is concerned for just what they really were—licenses for soft drink establishments. It was my understanding prior to that time that it was issued in the first instance for the privilege of selling booze. That was my understanding. I never entered into any discussion with

them about it. It was an established ruling that was going on at the time and just was continued. I never entered into any discussion with any of them about it. I just allowed the thing to go along as it had been going.

FURTHER CROSS EXAMINATION

BY MR. NUZUM:

I am sure I saw Charles Bloom drink moonshine in both 1927 and 1928. Fond was there on both occasions, sometimes he drank with Bloom and sometimes not. I have seen them both take more than one drink but I could not state who served. I called Mr. Bloom up once about the base ball player. I wanted him from Wallace. I do not recollect calling him at any other time except to help me, but he was called for other people. I only called him for different people.

CROSS EXAMINATION

BY MR. WALKER:

I only collected from Regina Dalo two or three times.

RE-DIRECT

BY MR. RAY:

Q. Were any of these contributions concerning base ball teams and so on taken from the citizens generally or just from these bootleggers, prostitutes and gamblers?

A. I do not know because I never took up a subscription of that kind.

Q. With respect to Charles Fond, did you have a conversation with Charles Fond on February 24th, relative to this whiskey business in Mullan?

A. Well, it was sometime around the 24th—in Mullan, but I am not certain whether it was in what is known as the Mullan Pool Hall or the Stockholm, and he told me at that time—

MR. NUZUM: I think it is incompetent.

MR. RAY: They have gone into it, your Honor.

THE COURT: The objection will be overruled.

A. He told me that a committee of the bootleggers had through their committee interviewed the council and had agreed to pay twenty-five dollars a month for the privilege of running their bootleg dumps without police interference. Immunity was never promised me by anyone.

With respect to the cash items on Exhibit No. 2, the people did not want their names on the list and they gave me the money and I wrote "cash." At the first meeting of the council it was agreed that I should do the collecting and suggested giving me a percentage on what I collected. I said I wanted straight salary and they agreed they would give me a raise but did not say how much and in two or three months they agreed on the price, and I was paid my back salary which was fixed at \$175.00 per month. We would put the drunks back inside of the different dispensaries where they were

selling liquor, and if they kept going out we would lock them up until they were sobered up, and after October, 1927 we sent them home without bringing them before the judge. I was given instructions by members of the council to use my discretion with reference to collections from persons mentioned in Exhibit No. 2. The collections on Exhibit No. 2 with one or two exceptions came from gambling, bootlegging or prostitution or some, a combination of these. Dr. Keyes and Jutilla are exceptions. Keys ran the Water Works, and the Mullan Light was run by Jutilla. I got one payment from Keys and one from Jutilla. Keys paid \$40.00 and Jutilla, \$1.50. The council asked me during my term whether the liquor dealers, prostitutes and gamblers would pay. John Wheatley asked me once or twice whether some of the fellows on the main stem were paying.

CROSS EXAMINATION

BY MR. POTTS:

Charles Fond was proprietor of the Bilberg. The conversation with him about the committee of bootleggers was somewhere in 1924 or 1925. I was not a regular policeman at that time. I acted specially at times. I spent most of my time in Mullan in 1924, frequented these places, and it was on such an occasion that I had this talk with Charles Fond, either at Mullan Pool Hall or some other place; I do not remember the places. I remember instances but do not re-

member the places. Fond was running one of them. He and I were alone. I do not know what the occasion of the conversation was. I was an intimate friend of his and frequented his place. We frequently discussed different matters. I do not remember anything about the conversation but the incident, and speaking about the way it came about, that is, in regard to the committee getting in contact with the committee from the Trustees. In fixing the amount of collections I exercised my discretion. Wheatley told me to and I think Harwood and Ristau were there.

CROSS EXAMINATION

BY MR. WERNETTE:

I do not know who else I told about the Fond conversation except I did tell some of the federal officials. Fond's statement was not told by me to anybody until I told it to the federals within the last few days.

CROSS EXAMINATION

BY MR. NUZUM:

Q. I didn't understand what you testified your occupation has been in Mr. Pott's examination—1924 I believe you said you did nothing but assessment work?

A. I said I didn't remember what other work I did aside from the assessment work.

Q. Do you remember that now?

A. I can't recall now where I was employed.

Q. How much money did you earn in 1924?

A. I do not know.

Q. Did you earn any?

A. I must have earned something in order to live.

MR. NUZUM: Some people seem to do that without working.

A. "A number of people that I worked for."

Q. You do not know when you worked for anybody?

A. I don't know just where I worked.

Q. Can you tell a single individual that you worked for in 1924?

A. I do not remember. I would have to do a lot of thinking before I could check that up."

In 1925 I worked for the Carney Copper Company, in 1924 or 1925, but am not certain just what year it was; that was a mining company. I do not remember just what I earned there. In 1926 I worked for the Butte and Coeur d'Alene. I earned \$6.00 a day; do not know how many days, possibly a couple or three months. That is all I did except my own work. I did that for myself. We got partial returns for our labor. I do not know what I earned in 1926. In 1927 up until I went to work as chief I was working for the Carney Copper Company, from the first of the year to the latter part of April. I did contract work. I have not been paid for that yet. I have not any income except from my own efforts. I had men working on property when I was chief, three men, doing assessment work.

I did not pay anything myself as I remember. I own two houses; bought them for \$600.00 while I was chief. I was chief 18 months at \$175.00 a month. I paid some for working the claims after the second year. I let a contract for 100 feet of tunnel at \$15.00 per foot in 1927. I did not pay that out of my own pocket. We levied an assessment. It was an organized company. I did not pay anything on the assessment. I sold \$1000.00 worth of stock in 1925. I did not have a bank account. I would not recall the names of the men I rented the house in Mullan to. I do not know what they were doing in the house. It was not rented for the purposes of prostitution. I do not know whether a house of prostitution was conducted there. I did not collect license for that purpose from the people occupying it; did not rent it to a woman conducting a sporting house; there was not a sporting house there to my knowledge. I do not know whether I would have known it or not. I can't recall any individual I collected from. I collected the rent from a woman; she claimed to be married. I do not know the woman named Margary McDonald. I do not think that was the renter's name. I know her name but cannot think of it. I do not know who the woman named Margery on the list of October 1st, 1928 is. I can place all of the names but three on that list.

Q. Coffee Shop, cash, and cash by W. Now, there is only two names, as I get it, or three names that you cannot state who they were and knew the places they run. Will you say now that Margarie paid you seven dollars and half of the list of October 1, 1928,—did not

pay it while she was occupying a house you owned in Mullan?

A. I will say positively and emphatically that she did not.

Q. How do you know that she did not if you don't know who this individual was?

A. I know that she did not pay me for my house.

Q. I thought you told me you did not know who occupied the house.

A. I told you I did know, but could not remember their names.

I know that they did not make any contributions to me and that I did not have any knowledge of it being a house of prostitution. I don't know whether it was or not. I know there was no Marjarie that occupied my house. I know I never collected any money from anybody that occupied my house that is on that list.

CROSS EXAMINATION

BY MR. WALKER:

I did not pay any income tax in 1924, 1925, 1926, 1927 or 1928.

RE-DIRECT EXAMINATION

BY MR. RAY:

The names of these girls appearing on this list I have been interrogated concerning were girls in the houses

of prostitution. They were in and out. They might not stay over but just a few days or over night may be and go, some a week and some a month.

ANTHONY MCGILL, a witness called on behalf of the plaintiff, testified:

DIRECT EXAMINATION

BY MR. RAY:

My name is Anthony McGill; 39 years of age and a miner by occupation; have been since 1907; in recent years generally as a shift boss and assistant foreman around the mine; have worked in the Coeur d'Alenes and went to Mullan in the later part of 1927. I had been there previously. I first went to the Midnight Mine and worked until about February. I went to the Morning and was contracting on the 3000 foot level; I went back to the Midnight; later left the Midnight, about the middle of July, 1928 because I was sick in the hospital; too much dust. I went around Mullan and knew that there was liquor sold. I drank myself at all these places. I met Fond, the defendant in 1928 and talked to him about tending bar in the Bilberg. I was to go to work for him in the Mullan Inn, with the had been paid in I was to have a half interest. I started in at the Mullan Inn on the 23rd of August; ran an open bar room; sold beer, whiskey and wine openly over the bar. I got my whiskey from the defendant, Fond, at the Bilberg up to about Christmas time. I went over and bought a gallon jug at a time. After

that he had it delivered from Wallace. My beer I got myself from a Finn woman and then from Blackie Coughlin, defendant here, and prior to that time I got it from Fond. We got the beer in 12 case lots of 24 pint bottles. Somebody working for the defendant Coughlin delivered the beer. I never had any trouble with any officers at the Mullan Inn. I paid my license every month to Needham while he was chief of police, then to Mr. Welch, Army Welch, the defendant. He was chief of police after Needham. Welch drank whiskey at my place. At one time he brought me some whiskey from the Bilberg. I know Morphy, the defendant. He was in and around my place. I never saw him take a drink. I know Charles Bloom, deputy sheriff. He would make an occasional visit. Sometimes I would not see him for two weeks at a time, then he would drop in. Any time he came in I asked him to take a drink and he did. Sometimes they would drink booze, sometimes they would take whiskey and sometimes they would take a cigar. I was never interfered with by Mr. Bloom. I was assisted by him once. There was a raid on one evening up there, it was along about Christmas time in 1928.

Q. Do you know whom the raid was being staged by?

A. Why, I know that Mr. Webb and Mr. Johnson were there and I heard that Mr. Foster was with them; Webb and Johnson are Federal Prohibition Agents. I did not see Mr. Foster.

Q. What happened as far as Mr. Bloom is concerned?

A. Mr. Bloom came in the place and told me that they were raiding and I was wondering what to do. There was quite a few drunks around, and he says, "You got your car here, get the stuff in the car and get it out of here, get it out of the way", and we started to taking it out and then there was another defendant here in the case, he says, "get out of the way", he says, "I will take it."

Q. Who is that?

A. Jack Malloy." I was not raided on that occasion. They left. I later had trouble with Mr. Fond over the place. I later had a conversation with Mr. Bloom, the defendant, in front of Harwood's about my trouble with Fond.

Q. State that conversation?

A. Oh, well, we just met and I told him that I had went down and paid the taxes on the fixtures and that I was going to try to make a go of it, I thought maybe I could, and I was going to make some arrangements with Mrs. Rantella, the woman that owned the fixtures.

Q. What did Mr. Bloom have to say?

A. Well, he said. "You might as well go ahead and maybe you can make a go of it, all right." So he told me there is no use trying to buck Charley because he did not have anything. Charley is Charley Fond.

I have seen Mr. Bloom in the Bilberg on numerous occasions. He was observing what was going on and

drinks were served while he was there.

Q. Now, then, calling your attention to election day, 1928.

A. Yes, sir.

Q. What, if anything did you do concerning the election on that day, Mr. McGill?

MR. NUZUM: I object as incompetent, irrelevant and immaterial.

MR. RAY: I think I shall bring it out directly as touching the officials of Shoshone County, your Honor.

MR. NUZUM: I think that is immaterial.

MR. RAY: By that I mean the Sheriff's Office.

THE COURT: The question is pretty broad, what he did on election day.

MR. RAY: Very well, your Honor.

Q. Did you supply an automobile—strike that. Did you have any conversation with Mr. Bloom on that day relative to your work?

A. Yes sir.

Q. And where was that?

A. Why, a few days after—in Mullan Inn.

Q. And when was this talk with Mr. Bloom?

A. It was a few days after election.

THE COURT: In 1928?

A. Yes sir.

MR. RAY: Very well, now then, go ahead and state.

MR. NUZUM: I object as incompetent, irrelevant and immaterial.

THE COURT: Objection is overruled.

MR. NUZUM: Exception.

A. Why, he just says that we had things our way again, we had Weniger in, and things were going along pretty good, and he thanked me for what I had done.

MR. RAY: What had you done?

MR. NUZUM: I object as immaterial what he had done in election.

THE COURT: What he had done in connection with Bloom he may state.

A. I just donated my car to the boys for service to help them out.

MR. NUZUM: Now if your Honor please, I move to strike that. Bloom was not a candidate for office.

THE COURT: Denied.

MR. NUZUM: Exception.

MR. RAY: Q. Was Mr. Bloom present on election day at Mullan?

A. Yes sir.

Q. Did he have anything to do with the use of your car?

A. Yes sir.

MR. NUZUM: All of this with reference to election goes in under my objection, if your Honor please. I object to it as incompetent, irrelevant and immaterial. It does not make any difference what anybody does with reference to a state election.

THE COURT: The objection is overruled.

MR. NUZUM: Exception.

THE COURT: A conversation had with one of the defendants.

MR. RAY: Q. And did you supply your car?

A. Yes sir.

Q. What, if anything, did you do relative to banners or posters on your car?

MR. NUZUM: Just a minute, I object to that as incompetent, irrelevant and immaterial. That is not a conversation with the defendant.

THE COURT: Objection is overruled.

MR. NUZUM: Exception.

A. I carried a banner on the car to vote for Al Smith in the—

MR. RAY: Q. Who furnished that?

MR. NUZUM: I move to strike that, because Al is not a party to this.

MR. RAY: Just a moment, I can connect this up in just a minute with Mr. Weniger.

Mr. NUZUM: As a democrat, I must protect Al.

A. I voted for him myself.

THE COURT: The statement of counsel is that he will connect it. I reserve the ruling. Unless he does, why, the Court also will protect Al.

A. Mr. Bloom tied the banner to my car. I told him we ought to have one there for Weniger and he said, "We have enough cars out for Weniger." And I said, "Al is good enough for me." I told all the voters not to forget Weniger. On or about the evening of November 6th Bloom came to my place of business.

Q. Now then, had Mr. Fond said anything to you prior to that time as to what you were to do with Mr. Bloom?

A. Yes sir.

Q. What did he tell you?

A. Why, he told me one day, he came in and asked me how much money I had in the register and I told him, and he said, "Well when Charley Bloom comes over, Charley Bloom will come over, why give him thirty dollars of it for me."

Q. Did Mr. Bloom come in?

A. Mr. Bloom came in and I handed it to him.

Q. Was there anything said?

A. No, sir, there was nothing said about it, but Charley Fond had told me that we had to put up a little money once in a while to keep them in good spirits.

THE COURT: I want to be clear about this. Whom was it you say told you to turn this thirty dollars over to Bloom?

A. Charley Fond.

MR. RAY: Q. He was your partner in running the Mullan Inn.

A. Yes, sir, he was the boss and he carried the keys to the register and all that stuff at the time.

Q. Now, during the campaign of 1928 did Mr. Weniger campaign any in Mullan?

A. Yes sir.

Q. I mean the defendant in this case, Weniger.

A. Yes sir.

Q. Did he come to your place of business?

A. Yes sir, I seen him in there on one occasion.

Q. What were you doing while he was in there?

A. I was behind the bar the day—the reason I re-

member it so well, there was a man trying to make a deal with me for me to handle his beer, and one of the men standing there says—told me, “There is Weniger.” Well, I had not known much of Mr. Weniger before that. He said, “that fellow down there on the end of bar was Weniger, not right on the end, he was next man to the end of the bar”, so I was serving the boys drinks back and forth and there were several times that that kind of stuff had been pulled off, where some fellow would come in and say that such and such a fellow was a Federal man, that he was going to treat you all right, so I put another man in. When they went out I got another man to tend bar, to make sure of things, and I went over to the Bilberg—

Q. Now, before we get over to the Bilberg, were any drinks served to Mr. Weniger or his companions while he was in there?

A. Why, there was drinks served to his companions but I could not state certain whether I served a drink to Mr. Weniger.

Q. When we use the word “drinks” what do we mean?

A. Whiskey or beer or whatever the boys wanted.

Q. Intoxicating liquors?

A. Yes sir.

Q. Now, the Bilberg, where is that located with respect to this Mullan Inn, Mr. McGill, in Mullan?

A. It was one full block and about three quarters of another.

Q. How long was it after Mr. Weniger left your

place until you went over to the Bilberg?

A. Oh, probably ten or fifteen minutes.

Q. Very well, sir. What did you observe when you went into the Bilberg?

A. Well, I went over to see Charley and talk to him about this beer.

Q. Charley Fond, you mean?

A. Yes sir. That was really what I went over to talk to him about, this beer deal, and at that time Weniger and several of those campaigners were all in there drinking and I observed at that time that he was taking a drink because he was pointed out to me then to be the real Weniger.

Q. Who was serving, who was tending bar?

A. Charley Fond.

I quit operating the Mullan Inn on the first of 1929. I was interviewed by government agents in May, 1929 and by Mr. Rodgers. I gave him an affidavit. I had an interview with Weniger and Bloom concerning conditions in Mullan. This took place in Wallace and I was sitting in the lobby of the Ryan Hotel and Mr. Bloom and Mr. Chapman came in and says, "the sheriff wants to see you over there."

Q. Who is Mr. Chapman?

A. One of his deputies.

A. So I went along with them over to his office and as soon as I went in the office, why, I thought he was going to throw a bomb shell at me or something.

MR. NUZUM: I move to strike that, your Honor.

THE COURT: Yes, sir, that portion of the answer

is stricken; not what you thought, state what occurred, Mr. McGill.

A. Well, he jumped onto me and he says, "What is this stuff going around here that you are making beer and fixing up beer for the Elks? And he made several accusations to try and rile me up, and I told him that they were false, and we got to talking things over, and he says that I was up in that country stooling, that I was helping the government men out, that I was stooling on these joints around town, and that the companies—well, through the conversation he told me that the heads of the companies made him run these places, leave them run wide open, and finally it finished up, he told me to keep out of them joints anyway.

MR. RAY: Q. Now, was there any profanity?

A. Yes, sir, there was.

Q. Or any other intimidation?

A. Yes, sir, there was. He accused me of just getting out of jail in Montana and different things like that, and he accused me of not being married.

Q. How many of his deputies were there at the time you were there?

A. They were just about all there. I could not say, because I don't know them all, but there was four there that I know of.

Q. You were in a room, just yourself and them there?

A. Yes sir, they had me cornered.

Q. They were all deputies of Weniger and Mr. Weniger?

A. Yes sir.

Q. Do you know their names?

A. Why, the ones that I knowed in there was Weniger, Bloom, Chapman and I could not tell you what the other man's name is.

Q. And this was just after you had had this interview with Mr. Rodgers?

A. Yes sir, he says—I had a broken leg, I think, but I was not under a doctor's care,—that I was around stooling and helping the government agents out.

There was an understanding among the bootleggers that we were to sell liquor in Mullan for two bits a shot for a glass of liquor, or, for beer, two bits a glass or for a pint bottle it was two dollars, and then we did a little wholesaling, too. I had no trouble about the prices.

I had no trouble about selling except the price of Tom and Jerries during the holidays. I used mostly moon to make them. I had two cases of soft drinks, ginger ale and lemonade, used as a chaser for whiskey. The license I got from Needham and Welch I took out as a permit to run the joint. I knew Chuck Anderson when he was running the Mullan Inn. He was bartender. I first saw him at the Bilberg, then at the Mullan Inn, then the Rockford Cigar Store, a barroom. I bought drinks from him at the Bilberg. To go in the barroom at the Bilberg you went through a lobby and then into the big barroom; never been changed since the open days. Back of the big barroom there was another barroom and little wine rooms in there

that was used when they had warning that the federal agents were coming. The Anderson I spoke of is a defendant in this case. The drinks were served over the bar just as in Alaska or Butte in the early days. I bought drinks from Anderson at the Rockford the same as at the Bilberg. The Rockford had an old time bar with a rail. Drinks were served over the bar. He was at the Mullan Inn shortly after I went there. It was run just the same as when I took it over. I know Herman Arbliss, the defendant. He was working with me and was at the Bolo. He plead guilty here and served his sentence and went back to the mine and has not touched liquor since. He was a bartender for me for a while. I knew Roy Appleton, defendant; had a bar at the Central Hotel. He had a bar there serving drinks over it. I bought drinks of him. I know Gus Aro but not very well. I knew his brother Leo better. The Hunter's was a hotel upstairs and barroom down stairs. There was no lobby; just go right into the bar and drinks were served over the bar. William Coughlin was manager of the Bolo. The Bolo was gambling in front and a bar in the back. Drinks served. I knew him in the Mullan Inn. He was working for me for a period, and running the Bolo when I was running the Mullan Inn. I knew Joe Florin; knew him years ago in Wallace. He was a policeman there for a while when I was in the Mullan Inn. He had the Dew Drop Inn last fall. I bought drinks there. You went back in and stood around and sat on a chair and had your drink. I know Fond. I have already testified about him. I

know Curley Gardner. He was in the Central; afterwards at the Bilberg. I bought drinks of him at the Bilberg; do not remember about the Central. He was a bartender; associated with Appleton in 1927. I know Frank Hahn, first at the Miners Club about Christmas, 1927. I did buy drinks from him. He was running a barroom, an open bar. I knew Pikkerainen at the Rockford I have told you about that place. I bought drinks from him there. I know Charles Hartley; knew him in connection with a place now called the Smoke House, a barroom with drinks served over the bar. I knew Walter Johnson in the Hunter Hotel. I never bought drinks of him. He was behind the bar and we talked about protection. I saw drinks sold over the bar. On one occasion we were talking about the federal men coming and raiding us and we were not satisfied with the protection. I know Mike Kennedy. He was running a little popcorn stand when I was in the Mullan Inn; sold candy and stuff; had a little table in the back where you could sit down and get a drink if you wanted it. I occasionally bought one. I knew Babe Kelly when I was running the Mullan Inn.

Q. What did she do?

A. She was just hooking in a place next door to where I had this saloon.

Q. Hooking—you mean prostitution?

A. She was one of the girls. She was upstairs over where the Rockford used to be—Marble Club; I drank with her, but I never bought drinks from her. She used to come into the saloon where I was.

I know Jack Malloy. He was working for me

around the Mullan Inn. Then I turned it over to him. He was one of my bartenders. I sold him what stock I had; gave him a receipt for it. I know Mona McDonald. She lives over in the Rex Rooms and used to live in the Coffee Shop. I do not know about the Rex Rooms, but the Coffee Shop was a sporting shop. I never got any liquor from Mona but I did from her girls. I knew James Normile, the defendant in connection with the Miners Club. He was there the biggest part of the summer and fall of 1928. He ran a saloon and sold drinks over the bar. I bought from him. I know the defendant Waino Pikkerainen. He was Frank Hahn's partner in the Rockford and Marble Club. He was handling liquor and I have bought over the bar there from him when I was running the Mullan Inn. I know Joe Speck. He was with Hartley, before I went into the Mullan Inn. That was in the spring of 1928. I did not see him in connection with any place. Before he got into trouble I knew he was in the Mullan Pool Hall. I did not buy anything of of him after he came back. The place was just a bar and drinks were served over the bar. Just the same as in Butte or Alaska. I know Bertha Strom, the defendant. She was in the Fern Apartments.

Q. What kind of a place was that?

A. That was a Hook Shop.

Q. Did you ever get drinks there?

A. I did.

I know Tubby Wilcox; knew him in connection with the Bolo. He was a bartender there and I bought

drinks. Can't tell the occasion but he was there during and before the time I was running the Mullan Inn. Coughlin was the proprietor of the Bolo at that time. I know Aggie West. She was handling beer, I occasionally got beer at her place. I knew Jimmie Ryan. She was supposed to be living in a hook shop. I never bought any liquor there. Occasionally she would come in and buy a bottle of me. I know Anna Tornberg. I know Regina Dalo.

Q. With respect to the gambling in the Village of Mullan while you were there, did Mr. Weniger do anything about it?

A. You played poker at any time you wanted to, and during the holidays, why Blackjack games were always open.

I know a man by the name of LaGore. He runs a poker game. You could get in for \$500.00 if you had it, or \$1,000 if you wanted to. They had a house man there; had a pan game and a poker game, and the money would begin to flash around; you did not need to be identified; it did not matter. You could play any time you wanted to start a game; just get a bunch and start the game up—just get some boosters to start her going. Blackjack games running during the holidays for money. I have played at Blackie Coughlin's. Black Dan was floor manager with different men behind the dummy. Gambling was in front of the barroom. I knew a woman by the name of Margery when I was in the Mullan Inn. She was what I would call in plain grammer, just a chippie. She would go around and drink with the

fellows and maybe stay in some booze place for a while and meet with somebody else and stay with them for a while—just a kind of a booster for some of these beer joints. She was in Big Mary's for a while, then stayed with another party called Alga, and they had some place out there that they called The Ranch. The conditions in Mullan with reference to drunkenness on the streets when I was running the Mullan Inn was there was a good many drunks; that wasn't nothing new on the streets there, but they pick them when they get too bad, and lock them up for a while until they sober up. While I was running the Mullan Inn there was only one time the places were molested by the sheriff or police officers of Mullan. It was over Frank Hahn's refusing to pay a license. I do not remember exactly what it was. I was never molested. I left along the latter part of December, 1928.

CROSS EXAMINATION

BY MR. NUZUM:

Q. You were acquainted with every prostitute in Mullan?

A. Practically.

Q. And you associated with every prostitute in Mullan?

A. In a business way I did.

Q. You also went to their houses and bought drinks?

A. Yes.

Q. Was that the business for which you went to their houses?

A. Not altogether.

Q. It was for intercourse, wasn't it?

A. Sir?

Q. It was for intercourse, wasn't it?

A. It was not.

Q. What did you go there for?

A. Just to be a good fellow, and buy drinks.

Q. You associated with every gambler in Mullan?

A. I did.

Q. You associated with every bootlegger in Mullan?

A. I did.

Q. Over a period of how long?

A. About a year, I guess.

Q. Was there any decent woman in Mullan that you knew?

A. Yes.

Q. Did she know your character?

A. Sure.

Q. Was there any decent woman that you dare speak to and let know that you were nothing but an associate with gamblers, pimps, whores and bootlegger—did you let any decent woman know that?

A. Certainly, they knew I wasn't pulling anything wrong outside,—

Q. At the time—

MR. LANGROISE: Let him finish.

A. (Continuing) There was no bones made about my selling liquor. I didn't like the liquor law myself so far as the purpose is concerned. I don't like the graft in it.

Q. You thought there was nothing wrong in any way in associating with whores, pimps, gamblers, and bootleggers and men of that sort?

A. No sir, I was bootlegging myself.

Q. How long had you been in the bootlegging business?

A. Just from the 23rd of August until around New Year's.

Q. That was the only time that you ever engaged in it?

A. The only time.

Q. Prior to that time you had been an honest, hard-working miner?

A. Yes.

Q. You, as other men, earned your bread by the sweat of your brow at that time?

A. I do that right today.

Q. How long did it take you to acclimate yourself to association with these people you have described?

A. I have been around the world since I was a young boy, and I know.

Q. Did you find yourself or not, right at home with these people?

A. Certainly.

Q. Right at home?

A. When I got acquainted.

I sold liquor over the bar the same as in Butte and Alaska in the old days from the 23rd of August until December. There were screens on the windows but you could look over. Doors were open in the summertime.

Anybody could walk in and see what was going on. When prohibition agents came we would have warning.

Q. How would you know that before they got to town?

A. The Sheriff's force and police let us know.

Q. What Sheriff or Deputy?

A. Bloom on one occasion.

Q. Any other occasion?

A. Bloom notified a few times that it was dangerous, and Mr. Welch communicated with me that there was danger, and that the Federal men were in town, and to get the stuff out and lock up.

Q. Bloom and Welch were the only ones—did Needham?

A. No sir.

I got warning several times before the federal men came. I happened to be lucky enough to get a warning. In June, 1928 I did not get the stuff out of the way but they did not get me; did not get mine; never closed up and any one could have seen it. The first time I told this story was on the witness stand last term. The first man I told was Hickman, when they had me on the stand last year. They had a bunch of affidavits saying we were trying to frame Fond and Fond got on the Witness stand and admitted I told the truth. I sued Fond for wages. I told Fond I would do six months in the can and I would see that he did ten or more. I first told my story as I have told it on the witness stand to Webb and Johnson when I was working for the Hecla. They told me that Fond told them I was running a joint.

They did not tell me unless I told everything they would prosecute me. I told him I sold booze over the bar. I have never been arrested; am not under bond; never was prosecuted. I went before the Grand Jury and testified in the entire case. I did not know I would not be prosecuted. I told Webb and Johnson I had been running an open saloon for six months. They said I would be liable to get hooked into it myself. I says, "All right, I am guilty. I was running a saloon and selling liquor." I have not been served with a complaint so far. They made no complaint and I have not been taken in so far. I made the affidavit later on. I testified against Fond and it resulted in his conviction. I did not buy from anybody. Mrs. Rantella owned the place; Johnson was supposed to be the owner. He was a mill man at the Morning Mine. The place was supposed to be in his name. There was no bill of sale. Fond told me Johnson had to quit the saloon business because of his position in the Morning Mine, and I could buy the saloon for \$300.00. The keys were to be retained by Fond up to the time the \$300.00 was paid; only the keys to the cash register, not the keys to the saloon. He paid Johnson. I sold the stock in the place to Jack Malloy, and whatever interest I had. I gave the bill of sale to Mr. Williams of White & Bender. He was salesman for the White & Bender. He came in to get Malloy and ask him for the bill of sale—asked if he could have it for a few days. I might have gone back behind the bar with Jack's consent and got it. I did not sell any interest to a Finn. He was there, and I had a talk with him and sent him

over to see Silvas and Mrs. Rantella, and he and I were to take the place between ourselves after Fond and I split up. I got the Finn to see Rantella about getting the fixtures at a decent price. The Finn tried it a couple of days; then got drunk and blew up. Fond and myself separated shortly before Christmas. I sold to Jack Malloy after Christmas. The bill of sale was taken and given to Williams three or four days after that. I was around the place. Whenever I was by the Bilberg and wanted a drink I bought it. Might be four times a day. I might be there playing poker five or six hours and take an occasional drink. Cannot tell how many drinks I bought there. I was manager of the Mullan Inn; worked when I felt like it; sometimes five or six hours and would walk around a couple of hours. I might go to Wallace, come back and stay six or seven hours. I went to the Bilberg maybe four times a day and took five or six drinks during the time I was playing poker. I was at the Bilberg practically every day; loafed around several places. I was around the Bolo quite often. It would be hard to say how many drinks I would get at the Bolo; it would be according to how I felt. I might want two or five. Visited the Bolo maybe once in two or three days and maybe the next two or three days I would be there every day.

Q. Can you give us an estimate of how many drinks you averaged at the Bolo?

A. Well, I am quite a little drinking man.

Q. Well, can you tell the jury the capacity of what you term quite a little drinking man?

A. I can carry a good load.

Q. What does a good load consist of—how many drinks?

A. It is according to how you are feeling, and what kind of shape you are in.

Q. In average shape?

A. I can drink 25 or 30 drinks.

I did not average 25 or 30 drinks a day or 15 drinks a day. Some days I would not take any; then I would drink a week. I might meet a bunch and would get on a good load.

Q. What other places did you go to besides the Bolo and the Bilberg?

A. Well, starting at my place, you go next door to the Coffee Shop, I guess you call it the Coffee Shop, and you can get a drink, and then cross the street to the Coffee House, and then on down to the street to the Hunter hotel, and then cross the street and go on down one block to the Miners' Club. You come back the same side of the street, past the Cumberland hotel, and the Victor hotel, and then you come to the Smoke House, and you can get all you want there, and after that the Coffee Shop, and you can get all you wanted there, up until the time they closed up. The Central, you walk down to the Central—that was padlocked during my time, then you cross over to Headhund's and get a drink there. Then you can go to the Rockford and get a drink there, and then you come up around to LaGore's, the Dew Drop Inn, and the next place would be the Bolo, and the next place would be the Bilberg.

Q. Mona McDonald's place?

A. That was—I never got liquor there. Mona was in a house of prostitution—it was the Coffee House. She was also living at the Rex rooms. I do not know anything more about it.

Q. Would you make the rounds of the places of every one of those places every two, three or four days?

A. It would be just according to how I was feeling, how far I would be able to go.

I did not know the defendant Weniger until he came into my saloon prior to election. I never had any conversation with him but once and that is when he called me to his office about the Elks. He told me that the clerk at the Ryan had stated I had told him I was bottling beer for the Elks for the state convention and we were doing that. I did not tell him so. He asked me if I was and I told him I had been where there was some beer. I did not tell him I was bottling beer for the Elks and did not deny it. He brought up the question to find out whether or not I was stooling for the Government. He asked me and I told him I was not. He did not ask me what I was doing around there; he told me that. He claimed I was stooling for the Government. I saw him drinking in Mullan during election campaign. He did not tell me he did not want any more talk about bottling beer for the Elks. He did not tell me unless I got to doing something he would vag me. He wanted to know about the Fond deal. We talked things over and he told me I had better cut out drinking around there. I had been drinking and was drunk when I was up there. I

was under the influence of liquor always. I would take a drink occasionally. I never had any business with Weniger. I never had any talks with him. I did not know who he was when he was in my place in Mullan until I went with somebody and found out that he was Weniger. I had never had any conversation with Weniger at that time. All that was the matter with Weniger was that he was sore because the government men were in town and he figured I was helping them. I have told practically everything I can remember that happened in Weniger's office. Weniger and Bloom and another deputy were there. I do not know his name. There was more than four there. They came in and went out. Some of them heard the conversation. I first saw Weniger shortly before election day .

Q. Who was in the place with him?

A. Why, there was one fellow up there commonly known as drunken Ganlack; was there with him.

Q. Who is Ganlack?

A. An attorney up there.

Q. Ganlack was an attorney who was running for prosecuting attorney on either the Republican or Democratic ticket, wasn't he?

A. I don't know what he was running on.

He was in the immediate vicinity of Weniger when they were in the Mullan Inn. Mike Mahoney and Disbrow were in there. Weniger with some friends was in the front of the bar. I could not tell whether Weniger was drinking. Ganlack was one of the men who was with Weniger and I cannot tell who the other men are.

They came in about 7 or 8 in a bunch. Weniger broke away from them and one man did all the buying. Weniger was at the far end of the bar. One man was on each side of him. Ganlack was one of them. I do not know who the other man was. Disbrow bought the drinks and then Weniger went out. They all went out about the same time over to the Bilberg. Ganlack was with Weniger in the Bilberg. There was a number hanging around all trying to get a drink on the election. Charley Fond was tending bar at the Bilberg. I do not know who was tending bar at my place. I observed Weniger taking a drink in the Bilberg. It was a shot of moon. We all drank. I cannot give the exact date. That was the only time I ever saw him in a saloon anywhere. I was well acquainted with Bloom. Had known Bloom since I was there and he was a shift boss at the Hunter Mine in 1916. I knew him fairly well. I had drinks with him when we got the booze from over the hill when Montana was wet. He was an officer then. I left and went to Alaska; came back in 1922 and did not go around Mullan. Did not see anything of Bloom. I had no association with him except to speak to him on the street. I cannot state the date when he first came into my place; it was shortly after I first started up. I do not remember whether anybody was with him. I do not know of anybody else who was there when he first came in. He would come along and get a drink once in a while. I was tending bar. Bloom never bought a drink. I cannot tell anybody else who was there. He never took more than one drink. At the time he spoke about the federals he said,

“They are raiding.” He took a drink at that time; I bought the drink myself. Jack Malloy was there. George Bare was there; that is, I am pretty sure he was there. George Spinney may have been there. Malloy was where he could see Bloom take a drink but had a pretty good load on. Bloom came in and the first thing he told me was that the federals were in there, in town and Malloy was where he could hear that and was sober enough to hear it, and Bloom says, “We will put it in your car and get it out.” We started to put some of it in the car and finally I says, “To Hell with it”, and I was going to quit the business and get out of there and anybody that wanted it could have it. All I sold there was what little stock I had, what I had bought.

Q. Any booze?

A. Oh, I might have took a bottle with me, yes sir.

Q. And you left with Bloom?

A. I went out of the place with Bloom, yes, if I remember right. I am pretty sure I went out of the place with Charley Bloom that night and went over to the Hunter to find out about it.

Jack Malloy was there all of the time this was taking place and Jack said, “Go on, I am an old man”, or something, “I don’t care whether I am in jail or not and I will take the fall.” And Bloom says, “Well, there is no use arguing with him, let him go.” I left the old man there to take the fall.

About the \$30.00, one afternoon Charley Fond came in and told me that he was a little short of money and for me to give Charley Bloom thirty dollars.

Q. What did he say it was for?

A. Oh, he says, "We got to treat them fellows right, you know."

Q. Now, was anybody but Fond and you there?

A. Nobody. But there was men in the saloon. But he came in behind to talk to me about it.

Q. And he said, "Give Charley Bloom thirty dollars, we have got to treat these men right." ~

A. Yes sir.

Q. And you gave it to Bloom?

A. He came in and got the thirty dollars.

Q. You gave it to him?

A. I did.

Q. Did he ask you for it?

A. No. He came in and I walked over and handed it to him.

Q. What sort of money was it?

A. It was in bills.

Q. What denominations?

A. I could not tell you.

Q. Anybody see you do it?

A. No, not that I can remember of.

Q. Did you take a receipt from him?

A. I have heard that there was a certain party seen me do it, but I don't know whether they did or not.

Q. Did you take a receipt from him?

A. No sir.

Q. Did he give you an acknowledgement of it?

A. No sir. I put it on the files, on the cash register and charged it to Charley Fond.

Q. That is, did you put it on "Thirty dollars given to Bloom."

A. No, I just put down, \$30.00 charged to Fond."

Q. Thirty dollars to Fond?

A. Thirty dollars to Fond.

It was charged to Charley Fond. That is the way it appeared on the cash register.

Q. What do you mean about putting it on the cash register?

A. Why, I ring up my cash register and any money paid out I made a slip of it and put it in the cash register. When Charley came to check up he would open up the cash register and check up the amount of sales and tally them up with the receipts from the cash receipts.

Q. And there was such a slip in the cash register on the day that you gave Bloom this money?

A. There was.

Q. And it was there when Charley Fond came and went into the cash register?

A. It was.

Q. And that is the only memorandum you made of it?

A. That is the only memorandum I made of anything. I was warned to keep Charley Fond's name off the receipts.

That is the last time I saw Bloom in my place. That night of the raid was the last time I seen him in the place.

Going to the election, Bloom did not ask for the use of my car. He said to boost for Weniger. He told me

he had hired four cars up there. I told him I knew a lot of men around the Midnight and Morning and I wanted to help them and I asked him for a banner.

Q. And you asked for a banner, didn't you?

A. I did.

Q. And he gave you a banner which said, "Vote for Al."

A. Yes sir.

Q. And you did not have a Weniger banner on your car?

A. No.

Q. Now, the only thing you say he said to you was, "Don't forget Weniger."

A. Why, sure, that is what I said to them.

Q. And Charley Bloom did not ask you to get a vote out for anybody, did he?

A. He did not ask me exactly. He told me to get out and help, help the cause along.

Q. And gave you the head of the democratic party's ticket, didn't he?

A. Sir?

Q. He gave you the ticket with Al Smith's name on it?

A. Sure, he did.

Q. And made no suggestions about doing anything for Weniger as an individual, did he?

A. Why, he told me—he did, he says, "Don't forget Weniger; keep Weniger in mind while you are going around."

I got no pay for it and it was my offering that caused

the car to be used by the Democratic Party.

About the tax receipts for taxes on the fixtures, Bloom was not there the day I paid the taxes. I went down to Wallace. I did not pay them to Bloom. The receipt showed it was paid by A. H. McGill. Bloom brought the notice in for me to go down and pay the taxes. He just came in and handed me the tax bill and he went out. I do not remember the day. It was after I had made the deal with Fond and got the cash register key after I had gotten rid of Fond. I took the keys a few days before I paid the taxes.

CROSS EXAMINATION

BY MR. WERNETTE:

I do not know what the relations are between Hahn and Pikkerainen. I do not know Joe Speck very well. Met him when he was working for Hartley and after that I did not know him at all until he came back. I played cards with him and gambled with him after he got back. I personally bought beer from Aggie West twice; just got a bottle. Her husband was there.

CROSS EXAMINATION

of Witness McGill, resumed:

BY MR. NUZUM:

Fond never really turned the place over to me. He gave me the keys to the cash register shortly before Christmas. I do not know date Bloom notified me of

the federal raid. It was different times when they would be coming up there and we would get warnings right along. That conversation was about Christmas. He occasionally took a drink in my place. I cannot remember dates. I testified before the Grand Jury.

Q. Never did testify to the date?

A. No, not exactly. If a man comes in and takes a drink occasionally he ain't going to put a mark on the calendar about it.

Q. Didn't you testify before the grand jury?

A. I certainly did.

Q. Well, didn't you testify that on the 25th of November, 1928, no, on the 20th of October, 1928, Bloom took a drink in your place?

A. I don't exactly remember unless it was some special occasion.

Q. Didn't you testify to that, didn't you fix the date before the grand jury with reference to that?

A. Now, I could not say for sure whether I did or not.

Q. Didn't you testify before the grand jury that it was on the 25th day of November?

A. Yes sir, he took a drink that day because it was—

Q. It was what?

A. That was election day.

Q. The 25th of November was election day?

A. No, it was not either. The 25th of November, I forget exactly what occasion that was but I never did testify to no date.

Q. Didn't you testify before the grand jury that

on the 25th of November Charles Bloom warned you that the Federal Agents were coming to raid the Mul-lan Inn?

A. Oh, now, I know what it is. It was the date—

Q. I just asked you that question.

A. It was the date—

Q. Listen to the question, Mr. Witness. Didn't you so testify before the Grand Jury?

A. I probably did if it is the date that raid was made.

Q. Was there a raid made on your place?

A. No sir.

Q. What date was it that you gave him the thirty dollars?

A. I could not state. I believe I could look that up, though.

Q. Wasn't it the same day that the raid was made?

A. No sir.

Q. It was another day that the raid was made?

A. Yes sir.

Q. And another day different from the time you testified that he took the drinks?

A. He took the drinks occasionally.

Q. Didn't you testify before the grand jury that on or about the 25th of November, 1928, Charles Bloom received thirty dollars from you?

A. About that time, yes sir.

Q. Also, that he took a drink on that day. How did you fix that date?

A. He did not take a drink. He did come in and get that thirty dollars.

Q. All right. Didn't you testify before the Grand Jury that it was on or about the 25th that you gave him the thirty dollars?

A. It was.

Q. And on or about the 25th that he warned you of the raid?

A. Well, I was warned several times.

Q. Now, I am talking about this—you only testified to one warning on direct examination yesterday, by Bloom. That is the one I am speaking about.

MR. RAY: That is a conclusion, the record will speak for itself, if your Honor please.

THE COURT: Go ahead.

MR. NUZUM: Q. It is the one that you testified about yesterday.

A. Yes sir.

Q. Now, was that on the 25th of November?

A. It was about that time, yes sir.

Q. Then you testified just a moment ago that the time that he gave you the warning was not the time you gave him the thirty dollars, didn't you?

A. Why, no, the time I gave him the thirty dollars I never testified that at that particular instance that he gave me any warning.

Q. All right. Then you did testify before the Grand Jury that it was on the 25th as to each one of them, didn't you?

MR. LANGROISE: Just a moment, that is not correct. We object to it for the reason it is unfair to the witness.

MR. NUZUM: All right.

Q. Did you tell the Grand Jury it was on or about the 25th that he took the thirty dollars?

A. Yes sir, it was.

Q. Is that the way you testified or did you tell them it was the 25th?

A. No, I never testified in my life to an exact date or a certain hour unless I was actually sure of it.

Q. Well, did you even fix the month before the Grand Jury that he took the thirty dollars?

A. I did.

Q. What month?

A. It was November.

Q. And what time in November?

A. Well, I could not exactly state what time in November.

Q. What time did you tell the Grand Jury?

A. WELL, it was—

Q. What time did you tell the Grand Jury?

A. Well, that was along about the time that the taxes were due.

Q. What time did you tell the Grand Jury?

A. I did not give the Grand Jury any exact time.

Q. You did not even fix it approximately, did you?

A. Yes sir, I fixed it the latter part of November.

Q. Did not mention the word *twenty-fifth*?

A. Not that I know of. Somebody might have mentioned the twenty-fifth. If they did, why, my answer to it was that it probably was about that time.

Q. And the twenty-fifth also with reference to the

time that you say Bloom warned you?

A. I am pretty near certain that the night that you are talking about that the Federals were in town was the night after Christmas.

Q. Then it would not be the 25th?

A. That would be the 26th of December if you want the exact date.

Q. I thought you left the place just before Christmas?

A. I left the place just after Christmas.

Q. Just after Christmas. Then it was the 26th of December instead of on or about the twenty-fifth of November that Bloom warned you that the Federals were making a raid?

A. According to what I can figure back, Mr. Johnson and Webb and as I was told fixed it that they was raiding the Hunter Hotel and he came in the place.

Q. Then you did not mention anything to the Grand Jury about Bloom warning you on the twenty-fifth of November or on or about the twenty-fifth of November that the Federals were coming to raid the Mullan Inn?

A. Yes sir, he warned me previous to that that they were liable to be in at any time. They never made any special threats of where they were coming to; they would just tell us that they were coming in, that they were on their way in the country.

Q. The testimony you gave on direct examination was that Bloom warned you and you started to get the stuff out, not that they were coming to raid, but they were raiding.

A. They were raiding, yes sir.

Q. And this is the time you spoke of in your direct examination?

A. Yes sir.

Q. Now, was that on or about the twenty-fifth of November?

A. Well, if that is the date that the raid was made on the Hunter, it is, but if it was not that date it was the day that the raid was made.

Q. I thought you told me now that that was the day after Christmas?

A. Why, I did not tell you that. I says as far as I can think back, why, some of the boys said it was after Christmas, the day after Christmas.

Q. Who of the boys said?

A. Some of the Federal men.

Q. Have you been talking to them about this since you were on the stand?

A. I have not.

Q. When did you get that information from them?

A. I got that about a week ago.

Q. And did they tell you that that is the time that you were to testify that this man Bloom notified you?

A. They told me nothing. I was just asking them to find out what day it was.

Q. Why, why were you questioning them?

A. Well, I just wanted to find out about it.

Q. What for?

A. Well, it might be material to me so that I could remember.

Q. So that you could testify?

A. So that I could remember close around the date.

Q. So you could testify?

A. Well, no, not exactly.

Q. Did not have your testimony in view?

A. There is some other things in connection with that.

Q. I say, you did not have your testimony in view, did you?

A. What?

Q. When you were talking to these Federals?

A. Why, certainly I have had my testimony—

Q. Yes sir.

A. A man wants to be pretty close to right about it. I did not say yesterday that the incident of getting the booze out was in November. If that is the night of that particular instance, if it had been November, it is correct. He did it and that is all there was to it. Whether it was in January or July, he did it there. The Federals told me that that raid, as close as they remembered it, was the day after Christmas.

I know a man by the name of Martin Patterson. He was night clerk in the Lion Hotel.

“There was a bunch of us fellows together and they asked me to help them bottle up some beer, and Patterson was one of the boys that got some of the beer. He did not exactly ask me. It was the fellow that owned the outfit that asked me.”

Q. I will ask you if in a conversation with Martin Patterson in the Ryan Hotel in the middle of June,

1929, you and he alone being present, if you did not state to Martin Patterson that you were bottling beer for Jimmie Bottenelli for the Elks' Convention or in words in substance to that effect?

A. I did not. I don't know Jimmie Bottenelli.

Q. I will ask you whether you stated that at that time?

A. I did not.

I was married when I went to Mullan. I was separated from my wife. I separated from my wife shortly before Christmas. I never was entirely unfriendly to Mr. Weniger. I really liked him.

Q. And you have stated to numerous people that you did not care what became of the other people but you wanted to cinch Weniger and Bloom, haven't you?

MR. RAY: Just a moment, I object to the question.

THE COURT: The objection is sustained.

MR. NUZUM: Exception. That is all.

MR. RAY: No objection if he fixes the time and place of the impeachment.

THE COURT: None at all if counsel will give the names of the parties and the times and places and give the witness an opportunity, he may ask the question, but you cannot ask it generally.

CROSS EXAMINATION

BY MR. POTTS:

I first went to Mullan in 1912; was there occasionally until 1916 or 1917. The town was wide open. Just as

wide open as Alaska and I was in Alaska in 1910. I was in Butte in 1908; been in Butte since but not since 1914. I did not highly exaggerate the conditions at Mullan. The only difference is you have to pay a little more for your drinks and you do not get good stuff like you used to, and I did not exaggerate as to the facility for getting in and out of places and buying drinks. The only time it would be tightened up a little bit would be when the Federal officers were around. Anybody could come in and get a drink. Any stranger could walk along the street and observe a place where liquor was being sold and people drinking in there and they could smell it on the sidewalks. Any stranger could walk right into the place and buy intoxicating liquor. I never turned a man down. We sold to anybody that came in. I only remember one time while I was in the saloon that I objected to selling him, to a stranger. Going up and down the main street of the town a person could look into some of these places and see liquor being dispensed. You could at the Mullan Inn that I was running in the summer and fall of 1928. The curtain was just about even with the top of a man's head and you could raise up and look over, and lots of times we failed to close the curtains. Of course you would have to make an effort to look in. You could stand right across the street from the Bilberg and see them lined up and drinking. I have not described all of the places where you could go along the street and see them drinking. When I ran the place I served without question or inquiry and openly. I became familiar with these places and frequented them often when I

first went to Mullan. I did not make the rounds every day but every few days. That was customary among the crowd. The Bolo has a card room in front and a bar-room space in the back. You would walk through the card tables down three little steps and to a big back room through a passage way. The back room is not in view from the street. The chief of police Welch was a regular patron at my place; did not buy; I gave him the drinks. He got a drink nearly every evening, whiskey float of moonshine. Jack Malloy and George Bare saw him drink at times. Charles Meyersic and George Spiney, Ed. Olson were there when Welch drank. When I asked him to bring a jug of whiskey from the Bilberg there was no one else around or I would have sent somebody after it. He brought it and gave it to me. It was a gallon jug.

Q. Who was present when he left your place to go and get the jug?

A. I could not exactly state who was present.

Q. Was any one there?

A. Yes, there was a bunch in there that were drinking and I was running short of whiskey and got it.

Q. Who was there?

A. I could not state exactly who was there.

Q. Name a single person that was there.

A. Why, it would be pretty hard to do, I could not state exactly who they were.

Q. How long was he gone after he left your place before he returned with the jug?

A. Oh, about ten or fifteen minutes.

My license was delivered by the chief of police every month Chief Needham first and then Chief Welch. It was for a soft drink place. I did not apply for anything. That was all fixed. I drank as much as 25 drinks of intoxicating liquor in a day at times. I meant moonshine whiskey. That might have been only 5 or 6 pints during the four or five months that I drank it. If it came that way it was not infrequent for me to drink six or eight drinks of moonshine at a time with a bunch of fellows, but the drinks were small. When I took a drink I took a substantial drink, but when it came to mixing with the business where I had to keep on my feet and mix with the gang, I would take a small one. When I would go around to these other places drinking liquor there I would not always take a big one. The bottle is out right up on the bar to you and you help yourself. You don't have to put her up to the hog line. I got full lots of times, but I was never off my feet.

Q. And you could drink twenty-five drinks of moonshine any day without getting drunk?

A. All during the day, yes sir, I can do it today.

I was frequently under the influence of liquor during the time I was running this place. I did not pay much attention to the running of the place after I found out what kind of mess I was into. I never had no regular hours. I was at the joint the biggest part of my time. When I was behind the bar working I was sober and when I would feel myself start to slip, I would get out. I have been in the mines since going out of this place, over Blacktail Mountain. I have been there practi-

cally ever since the first of July, from the 19th of January until the first of July. I worked steadily up in the Hecla Mine and the first of July I went to the Catherine Mine. Then I was working at a mine in Clarksfork. I have been right here the last few weeks.

CROSS EXAMINATION

BY MR. NUZUM:

The man Disbrow I spoke of is now in jail; in jail here, brought here from Sandpoint, and I was up to see him within a few days with two Federal officers. I know the Disbrow you mean and he is the one that was with Weniger when drinks were served and Weniger either took a drink or his friends took a drink. I thought I was a partner of Fond's from July until December. I thought I was but I wasn't. I discovered late in November that I wasn't. I sued him for wages for two months, November and December. I swore to the complaint. I turned the bill of sale from myself to Malloy over to Williams of White & Bender in the presence of Malloy. I would not say whether it was in the Mullan Inn or in the Dew Drop Inn.

CROSS EXAMINATION

BY MR. BANDELIN:

I never bought any liquor from Babe Kelly; never bought any liquor from Mona McDonald; never bought any from Jimmie Ryan; never bought any liquor from Gus Aro and I never bought any liquor from Walter Johnson.

RE DIRECT

BY MR. RAY:

Johnson and Aro were tending bar in the Hunter. I never drank in Babe Kelly's. I drank with Mona in the Coffee Shop. Myrtle Lavere, the landlady, served the drinks. I occasionally sold a bottle to Jimmie Ryan.

Q. Mr. Nuzum asked you if Mr. Disbrow was in your place of business with Weniger, at the time Weniger was in there, was he or was he not?

A. Disbrow, yes, he was in there. They all piled in there about the same time, and there was one man that stood right at the corner, like here (indicating) as I told Potts a little while ago, in front of the door, and right by him was Mr. Disbrow, and then right next to him was another fellow by the name of Mike Mahoney, and then several men down along the bar, scattered a little bit, and right at the end of the bar was Weniger—three men right together talking, and Weniger was right in the middle of the three.

Q. Disbrow was at one end of the bar and Weniger at the other?

A. Yes.

Q. You are in Coeur d'Alene under subpoena of the court?

A. Yes.

Plaintiff's Exhibit No. 3 shown for identification to witness, Mr. McGill.

Witness McGill: That is one of the licenses that were issued each month by the Chief of Police—paid \$25.00 for it.

MR. RAY: I offer in evidence Plaintiff's Exhibit No. 3.

Exhibit No. 3 admitted.

MR. RAY: Q. Mr. Potts interrogated whether or not you had any objections as to whom you sold liquor. Why?

A. Well, there was no use trying to make any bones about it. Everything was wide open.

My customers were mostly miners. They would come in there sometimes, coming off shift, and get a drink and go home for supper—maybe two or three drinks.

Q. With respect to the dates in this indictment of these various overt acts concerning which Nuzum interrogated you, I will ask you if you were interrogated as to the exact dates at which any of these transactions occurred, of which you testified in answer to Nuzum's questions?

A. I do not understand the question.

Q. Were you asked, Mr. McGill, the exact dates that Mr. Bloom tipped you off, or you gave him this \$30.00?

A. No sir.

Q. Was that indictment ever brought to your attention—did you ever see a copy of it?

A. No sir.

During the Republican Convention in Kellogg in 1928, in August. I was instructed by Needham and Army Welch to try to keep the boys from getting lit up too much, and if any of them did to keep them off the street because the Governor was coming up on a tour

and would visit the city, look around.

Q. Heretofore have you had occasion to tell your story in substance to Mr. Wernette and Mr. Bandelin, counsel for defendans here?

A. Yes, they are both friends of mine.

Q. That was some time ago or recently?

A. Sir?

Q. Was that some time ago?

A. That was before—even before the Grand Jury.

RE-CROSS EXAMINATION

BY MR. NUZUM:

On my former testimony I did not testify that Weniger stood at the outer end of the bar. Disbrow was not standing with Weniger.

Q. Were any dates asked you when you were in the Grand Jury room at all as to these things you alone knew?

A. Those men asked me dates, yes.

Q. And did you attempt to give dates?

A. I did as close as I could.

Charlie Fond knew about the thirty dollars I gave to Bloom and my wife knew about it. I do not know whether she saw me give him the thirty dollars or not. Anything she knew would be what I told her. There were others knew Bloom took a drink on the 25th of November, but I cannot tell you anybody. There was always a gang around. Jack Malloy, George Bear and Charles Milestick knew about the federal warning.

Milestick is an insurance man at Mullan. I think he was sitting near a card table when this conversation took place. The bar was 20 feet or better long.

RE-CROSS EXAMINATION

MR. POTTS:

In June, 1928 neither Welch nor Morphy gave me information that the federals were raiding, and I got no information that night. I was told during the Republican Convention at Kellogg that the Governor might make a trip to Mullan. Needham and Welch told me and Needham was chief of police at that time and Welch was night man. Needham told me to be careful and keep order and keep drunks off the street that day because the Governor was coming through the city on a visit and he wanted to have things looking right. Needham did not tell me to close the place. He did not tell me not to sell; he told me to be careful.

J. L. MARTIN, witness called on behalf of the Government, testified as follows:

DIRECT EXAMINATION

BY MR. RAY:

My name is J. L. Martin; have resided at Mullan since 1911; reside there now; am married. Am Justice of the Peace, City Clerk, Treasurer and Police Magistrate, at Mullan; have been City Clerk since July, 1918 and likewise Treasurer and Police Judge; been

Justice of the Peace since 1920, first by appointment. I am referred to as Judge Martin.

Plaintiff's Exhibit No. 4, for identification:

That is the minute book of the Village of Mullan, containing the minute record of the meetings of the Village Trustees. I am wrong; that is the ordinance book. It is in my possession as Clerk, made up by me from the ordinances passed by the Trustees from time to time.

Page 123 of plaintiffs' exhibit No. 4 for identification and the succeeding pages contain Ordinance No. 105 which regulates the income from licenses. It is the occupational tax ordinance.

MR. RAY: We offer in evidence, pages 123, 124, 125 and 126, of plaintiff's exhibit 4 for identification.

THE COURT: That being all the pages containing that ordinance?

MR. RAY: Yes.

MR. NUZUM: On behalf of the defendant Weniger, I object to it as incompetent, irrelevant and immaterial for any purpose at this stage.

THE COURT: Overruled.

MR. NUZUM: And on behalf of the defendant Bloom I make the general objection that it is incompetent, irrelevant and immaterial.

THE COURT: Overruled.

MR. RAY: I will ask to have marked pages 123,

124, 125 and 126. The exhibit just introduced reads as follows:

ORDINANCE NUMBER 105.

AN ORDINANCE PROVIDING FOR THE REGULATION AND SUPERVISION OF CERTAIN BUSINESSES IN THE VILLAGE OF MULLAN; PRESCRIBING DUTIES OF THE POLICEMAN OF SAID VILLAGE IN RELATION TO SUCH REGULATION AND SUPERVISION; PROVIDING FOR THE LICENSING OF SUCH BUSINESSES AND PRESCRIBING THE LICENSE FEES TO BE PAID FOR SUCH LICENSES AND PRESCRIBING HOW SUCH LICENSE FEES SHALL BE USED; CREATING A FUND TO BE KNOWN AS THE "POLICE FUND" AND PROVIDING THAT ALL LICENSES COLLECTED UNDER THIS ORDINANCE SHALL BE PAID INTO SAID "POLICE FUND" AND PROVIDING THAT SUCH "POLICE FUND" SHALL BE USED EXCLUSIVELY FOR THE PAYING OF POLICEMEN'S SALARY, AND TOWARD DEFRAYING THE EXPENSES OF THE POLICE DEPARTMENT OF SAID VILLAGE; PROVIDING FOR PENALTIES FOR THE VIOLATION OF THE PROVISION OF

THIS ORDINANCE AND FOR THE COLLECTION OF SAID LICENSE MONEY.

BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF MULLAN: SECTION 1. Unless it appears from the context of this ordinance otherwise, the word "Person" when used in this ordinance, shall also include "person2; the word "day" shall be construed to mean the period of time from mid-night to mid-night or any part of that period; the word "Month" shall be construed to mean a calendar month and "monthly" shall refer to a calendar month; the word "quarterly" shall mean that period of time included within the time beginning with January first and ending with March thirty-first; beginning with April first and ending with June thirtieth; beginning with July first and ending with September thirtieth, and beginning with October first and ending with December thirty-first, and "quarterly" shall refer to such periods of time. The word "year" shall mean the period of time beginning with January first and ending with December thirty-first and "Yearly", shall refer to that period of time.

SECTION 2. All business professions and callings conducted within the corporate limits of the Village of Mullan, shall be regulated and conducted in accordance with all the laws of congress, the State of Idaho, and the ordinances of the Village of Mullan, and in accordance with the regulations of all departments of said governments, including the health

department of the State of Idaho, of the county of Shoshone, and the Village of Mullan, and it is the duty of each policeman of the said Village to see that all persons, co-partnerships, or corporations prosecuting or carrying on any trade, business, profession or calling within the limits of said Village, comply with all such laws and regulations, and to report and complain to the proper authorities of the violation of any such laws or regulations.

SECTION 3. No person, firm, company or corporation shall be engaged in, prosecute, and carry on any trade, business, profession or calling within the limits of the Village of Mullan, for which a license may be required by this ordinance, until he or they or it shall have obtained such license.

SECTION 4. Every person, co-partnership or corporation required by this ordinance to obtain a license to engage in any trade, business, profession or calling for which a license is required, shall pay to the village clerk the sum required by this ordinance to be paid therefor. Upon receipt of such payment, the Village Clerk shall issue a license to the parties applying therefor upon the compliance of the applicant with the provisions of the ordinance relating to obtaining the licenses for the business, trade, profession or calling for which such license is required.

SECTION 5. In every license to be taken out, under or by virtue of this ordinance, shall be contained and set forth the purpose, trade, business, profession or calling for which such license is granted and

the name and place of abode of the person or persons taking out the same the date of granting and the time for which such license is to run. And said license shall authorize the continuance of the business named therein and the place named therein, for the term of such license, but shall not authorize the carrying on said business in any place unless the place licensed shall be closed, and in such cases the clerk shall be notified of the change and he shall note the same in the register of licenses. But if by a peddler, such license shall state whether authorized to travel on foot, or with one, two or more animals, or by automobile. And any person exercising or carrying on any trade, business, profession or calling, or doing any act for which a license is required, shall, on demand of any city officer at his place of business, produce such license, and unless he shall do so, may be taken and deemed to have no license.

SECTION 6. In every case where more than one of the pursuits, employments, occupations, business or calling for which a license is required, shall be pursued or carried on in the same place by the same person at the same time, license must be taken out for each according to the rate severally prescribed, except, as provided by section 10 of this ordinance.

SECTION 7. When a yearly license is provided for the same is taken out after the first day of the year, said license shall expire on the 31st day of December following, and the license shall be required to pay a full year's license therefor, if taken out in

January; if taken out in February, eleven twelfths of such license; if in March, ten twelfths, and shall be reduced one twelfth for each succeeding month during the year; When a quarterly license is issued and the same is issued after the first day of the quarter but issued in the first month of the quarter, the license fee shall be the same as for a full quarter; if issued in the second month of the quarter, the license fee shall be two-thirds of the license fee for a full quarter, and if issued in the third month of the quarter, it shall be one-third of the full quarterly licenses shall expire at the end of the quarter. Whenever a monthly license is taken out and the same is taken out after the first of the month but before the 10th of the month, the license shall pay a full monthly license; if between the tenth and the twentieth of the month, he shall pay two-thirds of the full monthly license, and if taken out after the twentieth of the month, he shall pay one-third of the full monthly license, and all monthly licenses shall end with the month. Whenever a daily license shall be taken out, the amount paid therefor shall be the amount of a full day's license, although only used for part of a day.

SECTION 8. All Licenses required by this ordinance shall be paid in advance in lawful money of the United States of America.

SECTION 9. The amount to be paid by any person, co-partnership or corporation for a license to carry on conduct any business to be licensed under this provision of this ordinance is prescribed in the

sections of this ordinance immediately following, for the respective businesses, occupations, or professions named in said sections.

SECTION 10. Each person, co-partnership, or corporation conducting a billiard room, Pool hall or bowling Alley, before entering upon such business shall pay to the clerk the sum of \$3.00 per quarter, and for each billiard table, pool table and alley, in such poolroom, billiard hall or alley, an additional sum of \$1.00 per quarter. Provided However, such license shall authorize the licensee therein to sell cigars, cigarets, tobaccos and notions, but not soft drinks.

SECTION 11. Each person, co-partnership or corporation having soft drinks for sale, either in or with another business by itself shall pay to the clerk \$25.00 per month and receive a license to conduct said business from him, besides any other license that he, they or it may have.

PROVIDED HOWEVER. This shall not apply to grocery or other merchandise stores selling soft drinks in the original bottles or packages.

SECTION 12. Each person, co-partnership or corporation conducting a soda or ice-cream stand shall pay to the clerk the sum of \$1.00 per year and receive from him a license to conduct such business, besides any other license he, they or it may have.

SECTION 13. Each person, co-partnership or corporation leasing or conducting a theatre or picture house (not a variety concert theatre) shall pay the

Village Clerk the sum of \$15.00 per quarter.

SECTION 14. Each person, co-partnership or corporation presenting or exhibiting minstrels, legerdemain, carnivals or conducting any fortune telling or other business not herein provided for (when not a theatre where quarterly license is taken out) shall pay to the clerk for each single performance the sum of \$5.00.

SECTION 15. Each person, co-partnership or corporation exhibiting or conducting any circus or menagerie, including side-shows, shall pay to the clerk the sum of \$50.00 per day and shall receive from the clerk a license to conduct such business. **PROVIDED HOWEVER**, no license must be collected for an amateur exhibition or concert for school, charitable or religious purposes.

SECTION 16. Each, person, co-partnership or corporation presenting or conducting a variety or concert theatre, whether admission is charged or not, in a place where no license is charged therefor, shall pay to the clerk the sum of \$15.00 per day.

SECTION 17. Each person, co-partnership or corporation conducting a merry-go-round shall pay the clerk the sum of \$25.00 per day.

SECTION 18. Each person, co-partnership or corporation conducting a shooting gallery or any doll rack or cane rack, shall pay to the clerk the sum of \$5.00 per day or \$25.00 per quarter.

SECTION 19. Each person, co-partnership or corporation operating or running a public garage

shall pay to the clerk the sum of \$16.00 per year.

SECTION 20. Each person, co-partnership or corporation conducting a livery or feed stable shall pay to the clerk the sum of \$6.00 per year.

SECTION 21. Each traveling merchant, hawker or peddler who carries a pack and vends goods, shall pay to the clerk the sum of \$5.00 per day if traveling on foot, but if using a wagon, horse, horses, or automobile, the sum of \$5.00 per day PROVIDED HOWEVER, that nothing in this ordinance shall be construed to apply to peddlers in agricultural or farm products.

SECTION 22. Each person, co-partnership or corporation conducting a gas or electric plant shall pay to the clerk the sum of \$10.00 per quarter.

SECTION 23. Each person, co-partnership or corporation conducting or carrying on any water-works or plumbing store, or both, shall pay to the clerk the sum of \$10.00 per quarter.

SECTION 24. Each person, co-partnership or corporation conducting a telephone business in the limits of said Village shall pay to the clerk the sum of \$5.00 per quarter.

SECTION 25. Each person, co-partnership, or corporation operating a motor-car or bus for hire, or engaged in drayage or transfer business, shall pay to the clerk the sum of \$3.00 per quarter.

SECTION 26. Each keeper of a hotel or lodging house, restaurant or public eating house, or stand, shall pay to the clerk the sum of \$3.00 per quarter.

SECTION 27. Each person, co-partnership or corporation engaged in the laundry business shall pay to the clerk the sum of \$3.00 per quarter.

SECTION 28. Each person, co-partnership or corporation operating a barber shop shall pay to the clerk the sum of \$1.50, per quarter.

SECTION 29. Each person, co-partnership or corporation keeping or conducting a roller or ice skating rink shall pay to the clerk the sum of \$10.00 per month.

SECTION 30. Each person, co-partnership or corporation, who in a fixed place of business, sells any goods, wares or merchandise, drugs or medicines, jewelery or wares of precious metals, whether on commission or otherwise, including all butchers, meat-dealers, in general merchandise, shall pay to the clerk the sum of \$1.50 per quarter.

SECTION 31. Any person, persons or company, co-partnership or corporation who shall transact any business, trade, occupation or profession for which a license is required by this ordinance without procuring such license, shall be deemed guilty of a violation of this ordinance, and upon conviction thereof, shall be fined in a sum not less than \$5.00 nor more than \$100.00.

SECTION 32. Any person conducting any business, trade or occupation, either in whole or in part, as a manager, clerk, servant or employee of any person, association or co-partnership or corporation, for which business, trade, or occupation a license is

required by this ordinance and for the conducting or carrying on of which business, trade, or occupation no license has been obtained by the party for whom said business, trade or occupation is conducted shall be deemed guilty of a violation of this ordinance in conducting the business, trade or occupation without having a village license therefor, and upon conviction therefor, shall be fined in a sum not less than \$5.00 nor more than \$100.00.

SECTION 33. In case of parties conducting or doing a business for which a license is required by this ordinance and such parties not having such license, the act of conducting such business for each day shall be considered a separate offense.

SECTION 34. If any person, persons or company, co-partnership or corporation transact any business, trade, occupation or profession for which a license is required by the ordinances of the village of Mullan without procuring such license, there shall be due from such persons, company, co-partnership or corporation to the village of Mullan, the amount of the license required for the transaction of the business, trade, or profession so engaged in, conducted or carried on; and the village of Mullan, by civil action, may enforce the collection of the same.

SECTION 35. All moneys collected for license under this ordinance shall be paid into a special fund to be known as the "POLICE FUND" and shall be used exclusively for the payment of the salary of Policemen, and for the expenses in connection with the

operation and conducting of the police court department of the Village of Mullan.

SECTION 36. All ordinances and parts of ordinances in conflict with this ordinance are repealed by this ordinance; **PROVIDED HOWEVER**, this ordinance shall not in anywise be retro-active or ex post facto and shall not relieve any person from punishment for the violation of any ordinance heretofore in force in said Village and shall not relieve any person, co-partnership or corporation from any liability that he, they or it may heretofore have incurred on any bond given pursuant to the provisions of ordinance No. 103, of the village of Mullan, passed on the 6th day of September, 1922.

SECTION 37. It is expressly declared that should any section, part or portion of this ordinance be declared unconstitutional or void, for any reason, such unconstitutionality or invalidity shall in nowise affect the remaining portion of this ordinance.

Passed by the Board of Trustees and aproved by the Chairman of the Board of Trustees of the Village of Mullan, this 4th day of February, 1924.

ATTEST:

J. L. MARTIN, Clerk.

Signed:

D. F. CLARK, Chairman.

SEAL.

Page 121, plaintiff's Exhibit 4, is Ordinance 103, an ordinance requiring a license to be had from the city

clerk for soft drink purposes and requiring a bond to be put up to protect the license.

MR. RAY: We offer in evidence Page 121 of plaintiff's exhibit No. 4 for identification.

MR. POTTS: When was this ordinance adopted by the Board of Village Trustees of Mullan?

A. The 6th day of September, 1922.

MR. POTTS: And was it superseded and repealed by Ordinance No. 105? Is that the ordinance referred to?

A. That is the ordinance referred to, but I did not notice that in reading that ordinance a minute or two ago that it did repeal that. If it did, it so states in Ordinance No. 105.

MR. POTTS: Q. This is the ordinance No. 103 referred to in section 36 of ordinance No. 105?

A. Yes sir.

MR. NUZUM: On behalf of the defendants Weniger and Bloom and Anna Tornberg, I object to this as incompetent, irrelevant and immaterial, and I rather gather from what Mr. Martin said that this ordinance has now been repealed. It was repealed by ordinance No. 105. And it seems to me it is pretty remote if your Honor please, 1922. The date of the conspiracy is 1924. I think it was before Mr. Weniger even became a sheriff of Shoshone County. He was elected he tells me in 1923. This ordinance was passed long prior to his election and has been repealed, and it would be incompetent and immaterial in any event as against either Mr. Weniger or Mr. Bloom.

THE COURT: What does the government have to say about this ordinance?

MR. RAY: The purpose of it is to make understandable ordinance No. 105, your Honor, which that makes direct reference to, and I think an examination of the ordinance itself shows its immediate relationship to one hundred and five. Ordinance 105 repeals all other ordinances except one hundred and three, the purpose of it being so that the jury may understand the purpose and effect of one hundred and five. Of course, it was in force up until February 4, 1924.

THE COURT: And the objections will be overruled. The ordinance will be admitted in evidence.

MR. GRIFFIN: September 6, 1922. (Reading:)

“Ordinance No. 103. An ordinance providing for the issuance license for pool halls, billiard halls, soft drinks, restaurants, or places where games or billiards, pools, or cards are played or soft drinks are sold; providing for the amount to be paid for such license, how the same shall be issued; prescribing that a bond shall be before any such license shall be issued; fixing the penalty for violation of said ordinance and repealing all ordinances or parts of ordinances in conflict with this ordinance.

“Be it ordained by the chairman and board of trustees of the Village of Mullan:

“Section 1. It shall be unlawful for any person, partnership or corporation to conduct, run, operate, carry on or manage any pool hall, billiard hall, or soft drink parlor, restaurant or place for the game

of billiards, pool or card games are played, or soft drinks are sold, without first having secured from the village clerk in the manner hereinafter prescribed, a license to conduct such business and give bond to the said village as hereinafter specified.

“Section 2. Before any person, partnership or corporation shall be entitled to receive such license, he, they or it, shall make an application in writing to the Board of Trustees of the said village, therefore, giving the number of the house, and the street on which it is located, or otherwise describing such house so that the same may be located with certainty, where such business or businesses are to be carried on or conducted, together with a receipt from the village treasurer for the amount of license as herein fixed, and the name of at least two good sureties, residence of the village of Mullan, and holders and owners of real estate, or some surety company authorized to transact business in Shoshone County, State of Idaho, as bondsman. If the village trustees shall approve and accept of such bondsmen and grant said license, clerk of said Village of Mullan, shall issue to said applicant upon his, they or it, giving the said village a bond with said sureties as surety thereon according to law in the penal sum of five hundred dollars (\$500.00) dollars; conditioned that he, they or it, will keep a quiet and orderly house, and that he, they or it, will not permit gaming for money in said house, or the keeping, making or selling or giving away therein of any intoxicating liquors whatever and that

said applicant will not permit of riotous or disorderly conduct therein; and that such applicant shall at all times comply with all of the laws of the State of Idaho and the ordinances of the Village of Mullan pertaining to intoxicating liquors and such business or businesses. But said clerk shall not issue the said license until the said bond is executed as aforesaid, and such applicant shall not commence business until such license shall have been issued.

“Section 3. The amount of said license for any or all of said businesses shall be the sum of sixteen (\$16.00) dollars per year, and all license shall issue for one year from January 1st to December 31st, inclusive, in the calendar year in which such application is made, provided, however, that when such license is issued after January 31st of any year, the sum to be paid for such license shall be set proportional part of such yearly license as the number of months remaining in said calendar year, including the month in which the license is issued, shall bear to twelve or the entire number of months in a calendar year.

“Section 4. Upon said applicant having been convicted in any court having jurisdiction, or violating any law of Idaho, or any ordinance of the Village of Mullan in relation to intoxicating liquors, or in relation to the carrying on of, or conducting of said business or businesses for which said license is granted, the said license shall at once become null and void and thereafter the person, partnership or corporation to

which the same shall have been issued shall not thereafter conduct any such business or businesses in said village until another license shall have been issued to said person, partnership or corporation and no license shall be so issued for a period of six (6) months after such former license shall become null and void.

“Section 5. Any person violating any of the provisions of this ordinance shall upon conviction thereof be fined in any sum not exceeding one hundred (\$100.00) dollars and costs of prosecution.

“Section 6. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

“Passed by the Board of Trustees and approved by the chairman this sixth day of September, 1922. Joseph L. Martin, Clerk. A. P. McRae, Chairman

MR. RAY: Q. Mr. Martin, handing you plaintiff's exhibit No. 5 for identification, I will ask you to state generally what that is.

A. That is the minute book of the Village of Mullan. Kept by myself as clerk.

Q. And in your possession and custody as such?

MR. POTTS: What was the number of that exhibit?

MR. RAY: No. 5.

MR. POTTS: I thought that ordinance No. 103 was No. 5.

MR. RAY: That is part of 104, Mr. Potts. I

just identified it as exhibit 4 and introduced those sheets of that.

MR. POTTS: How is the exhibit identified?

MR. RAY: No. 5.

THE COURT: Ordinance No. 105, what is it, No. 4?

MR. RAY: Yes sir.

THE COURT: Mark ordinance No. 103 No. 4-A.

MR. RAY: The last question, Mr. Reporter. (Question read.)

A. Yes sir.

Q. Calling your attention to Page 247 of Plaintiff's Exhibit No. 5 for identification, I will ask you to state generally what that page indicates or shows.

A. The first record at Page 247, February 4, 1924, shows the record of the meeting of the trustees of the Village of Mullan, at which time ordinance No. 106—

Q. Was considered or established?

A. Was considered. Reading it I cannot tell whether it was passed at that time. Anyhow, it was considered at that time.

THE COURT: At any rate it is the meeting held on that date and it shows for itself what they did.

MR. RAY: We offer in evidence Page 247 as No. 5-A. of plaintiff's exhibit No. 5.

MR. NUZUM: On behalf of the defendants, Weniger and Bloom, I object to it as incompetent, irrelevant and immaterial and that any action by a village board or a municipality is within the jurisdiction and rights of that board and can be no basis for the

violation of any Federal statute. On behalf of the defendant Anna Tornberg, I object as incompetent, irrelevant and immaterial.

THE COURT: And the objections will be overruled.

MR. RAY: (Reading:) "Proceedings of the village trustees, in regular session, February 4, 1924.

"The village trustees met in regular session in the city office, at 7 p. m. Roll call: present, F. D. Clark, Chairman; C. B. Johnson, Arthur J. Harwood, Elmer Olson; absent, D. R. McCord, J. E. Gyde, Village Counsel; Larry Dooling, Chief of Police, and Joseph L. Martin were also present. And several citizens in attendance to consider the question of street paving following the regular meeting of the trustees. The minutes of the last regular meeting, Jan. 7th and the following adjourned meeting of Jan. 28th were read. Moved and second that the meetings of the several meetings be approved as read. Carried.

ings, Jan. 15th and Jan. 18th, and the called meeting

"Ordinance No. 106, being an ordinance providing for assessing of a license fee upon each line of business conducted within the city limits, for the privilege and right of conducting said business, the funds arising therefrom being for the purpose of conducting the police department and for paying police salaries and the expense of the police court, and kindred purposes, was introduced by Arthur J. Har-

wood. The ordinance was read by the village counsel, Mr. Gyde.

“Whereas there is an emergency existing, making the passage and placing in force of ordinance No. 106, therefore it was moved by Trustee Arthur J. Harwood, and seconded by Elmer Olson, that ordinance No. one (1) of the ordinances of the Village of Mulan, and statute No. 4062 of chapter 166 of the revised statutes of the State of Idaho, being an ordinance and a statute requiring the reading of all ordinances to be passed by city or village governments, to be read at each of three successive regular meetings of the city or village trustees before being placed upon the final passage, be and the same are hereby suspended. The motion was put upon the Aye and Nay vote: D. F. Clark, Aye; Arthur J. Harwood, Aye; C. B. Johnson, Aye; Elmer Olson; D. R. McCord being absent and not voting, the chair declared the motion unanimously carried. After further and due consideration of the ordinance, No. 106, Trustee Arthur J. Harwood moved the adoption of the ordinance. The passage of the ordinance was put upon the Aye and Nay vote; after being second by Elmer Olson; D. F. Clark, Aye; C. B. Johnson, Aye; Elmer Olson, Aye; Arthur J. Harwood, Aye; D. R. McCord being absent and not voting; thereupon the chairman, D. F. Clark, declared the motion unanimously carried. Counsel J. E. Gyde was instructed to have the ordinance published in the Wallace Miner for one issue, being the issue of said 7th, 1924.

The bills were read as O.K'd by the finance committee. (See the list on file); moved and seconded that the bills be allowed and warrants drawn upon the treasurer in payment of the same. Carried. The treasurer's monthly report was read. Moved and second that the report be accepted as read. Carried. Moved and second that we adjourn. Carried.

“Joseph L. Martin, *Clerk*.

D. F. Clark, *Chairman of Board*.”

Page 254 of plaintiff's exhibit 5, at the bottom, shows the proceedings of the village trustees of January 23, 1924, and they continue on page 246 and also a called meeting for January 28, 1924, relating to a consideration of Ordinance 105.

MR. RAY: We offer in evidence the last three lines of Page 245 and the entire page 246 as plaintiff's exhibit No. 5-B.

MR. RAY: I might say that this ordinance was considered at two or more meetings, and that these dates here antedate the one I just read to Your Honor.

MR. NUZUM: I object to this as incompetent, irrelevant and immaterial. The ordinance passed was ordinance No. 106.

MR. RAY: Designated as that.

MR. NUZUM: It is so designated and I assume that that is what it is, and the ordinance referred to here is 105. I think it is incompetent, irrelevant and immaterial generally on behalf of the defendants I repre-

sent and showing on its face that it is a different ordinance than the one that was passed in February.

THE COURT: The objections will be overruled.

MR. NUZUM: Exception.

THE COURT: It will be admitted in evidence.

MR. GRIFFIN: (Reading:) "Mullan, Idaho, Jan. 23, 1924. The village trustees met in adjourned session in the village office, Jan. 23rd, 1924, at 7 p. m. Roll call: Present D. F. Clark, Chairman; D. R. McCord; Elmer Olson; C. B. Johnson and Arthur J. Harwood. J. E. Gyde, village counsel; Larry Dooling, Chief of Police; Joseph Martin, Clerk, and John Taylor, a member of the committee to fix the rate of license fees for each line of business in the city, were also present.

The sections of the ordinance fixing license fees, was gone over and the various fees agreed to and entered. The ordinance was read in its entirety and fully considered.

"The following resolution was then presented by Trustee Elmer Olson, who moved its adoption: Whereas, there is an emergency existing, making the passage of and placing in force ordinance No. 105, governing the licensing of all lines of business being and to be conducted within the city limits,—that ordinance No. one (1) of the village and statute No. 4062 of chapter 166, of the revised statutes of the State of Idaho, being an ordinance and a statute requiring the reading of all ordinances to be passed by city and village govern-

The bills were read as O.K'd by the finance committee. (See the list on file); moved and seconded that the bills be allowed and warrants drawn upon the treasurer in payment of the same. Carried. The treasurer's monthly report was read. Moved and second that the report be accepted as read. Carried. Moved and second that we adjourn. Carried.

“Joseph L. Martin, *Clerk*.

D. F. Clark, *Chairman of Board*.”

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MR. RAY: Designated as that.

MR. NUZUM: It is so designated and I assume that that is what it is, and the ordinance referred to here is 105. I think it is incompetent, irrelevant and immaterial generally on behalf of the defendants I repre-

sent and showing on its face that it is a different ordinance than the one that was passed in February.

THE COURT: The objections will be overruled.

MR. NUZUM: Exception.

THE COURT: It will be admitted in evidence.

MR. GRIFFIN: (Reading:) "Mullan, Idaho, Jan. 23, 1924. The village trustees met in adjourned session in the village office, Jan. 23rd, 1924, at 7 p. m. Roll call: Present D. F. Clark, Chairman; D. R. McCord; Elmer Olson; C. B. Johnson and Arthur J. Harwood. J. E. Gyde, village counsel; Larry Dooling, Chief of Police; Joseph Martin, Clerk, and John Taylor, a member of the committee to fix the rate of license fees for each line of business in the city, were also present.

The sections of the ordinance fixing license fees, was gone over and the various fees agreed to and entered. The ordinance was read in its entirety and fully considered.

"The following resolution was then presented by Trustee Elmer Olson, who moved its adoption: Whereas, there is an emergency existing, making the passage of and placing in force ordinance No. 105, governing the licensing of all lines of business being and to be conducted within the city limits,—that ordinance No. one (1) of the village and statute No. 4062 of chapter 166, of the revised statutes of the State of Idaho, being an ordinance and a statute requiring the reading of all ordinances to be passed by city and village govern-

ments, to be read at each of three successive regular meetings of such or village counsel, before being placed upon their final passage, be and the same are hereby suspended. The motion was second by C. B. Johnson, and after consideration the motion was placed upon its final passage by the Aye and Nay vote. D. F. Clark, Aye; Arthur J. Harwood, Aye; D. R. McCord, Aye; Elmer Olson, Aye; C. B. Johnson, Aye. Thereupon the chairman declares the motion unanimously carried. Ordinance No. 105 being an ordinance fixing license fees for all of business conducted within the city limits, was presented by Trustee Arthur J. Harwood, who moved its adoption. The motion was second by C. B. Johnson, trustee. And after due consideration, the motion was put by the chairman upon the aye and nay vote: D. F. Clark, aye; Arthur J. Harwood, aye; D. R. McCord, aye; Elmer Olson, aye; C. B. Johnson, aye. Thereupon the chairman declared the motion unanimously carried, and that ordinance No. 105 was duly adopted.

“Mr. Gyde, the village counsel, was requested to have the ordinance in the Wallace Miner for two issues. The question of protecting the village against any violation of ordinance No. 103, prior to its repeal, was considered. Moved and second that the bonds of all soft drink parlors holding license under said ordinance No. 103, be held for three months for the purpose of protecting the village against any violation of said ordinance, which might have occurred while it was in force and effect, during the year 1923. Carried.

Moved and second that we adjourn. Carried.

“Joseph L. Martin, *Clerk*.

“D. F. Clark, *Chairman*.”

“Call meeting of the village trustees, Jan. 28, 1924.

“Village trustees met in special session in the city office at 7 o'clock p. m., Jan. 28th, 1924. Roll call, present: D. F. Clark, Chairman; C. B. Johnson; Elmer Olson; D. R. McCord and Arthur J. Harwood. J. E. Gyde, village counsel; Larry Dooling and Joseph L. Martin, Clerk, were also present. The following call for the meeting was offered for reading and ordered placed on file, addressed to each member of the board of trustees and the village counsel; Dear Sir: At the request of Mr. Gyde, village counsel, the Mayor, D. F. Clark, has called a meeting of the village trustees for as near six-thirty p. m. as may be convenient, Monday evening, *May 28th day of Jan.* 1924. The business of the meeting will be further consideration of ordinance No. 105. Yours truly, J. L. Martin, Clerk.

“Mr. Gyde then explained in detail the reason for making the call for the meeting, and calling special attention to a late supreme court decision which affects the possibilities of ordinance No. 105 as drawn and passed by the board at an adjourned meeting of the board of January 18th, 1924. After due consideration of the reasons for recalling the said ordinance No. 105, and not having had the said ordinance published and placed upon the ordinance book of the village, the fol-

lowing resolution was introduced by Trustee Arthur J. Harwood, who moved its adoption;

“Whereas, a question has arisen to the constitutionality and validity of what is termed ordinance No. 105, passed by the trustees of the Village of Mullan on the 23rd day of January, 1924, and it is deemed advisable to withdraw said so-called ordinance No. 105, and not publish the same, and have a new ordinance drawn and passed which shall not be subject to the objections which may exist in the said so-called ordinance, in that it appears that it may be construed to be an ordinance to raise revenue by licensing certain business and occupations, and not solely for regulatory purposes.

“Therefore be it resolved, that the said so-called ordinance No. 105, be and the same is hereby withdrawn from the files, and that the vote thereupon be reconsidered, and that the said so-called ordinance No. 105 be not published, and that it be held, and hereby is held for naught and null and void in all particulars and that the village attorney for said village be and he hereby is directed to draft a new license ordinance providing for the regulation of certain business in said village with only such reasonable license fees provided as shall bear reasonable relation to the cost of such regulation, and in conformity with the views expressed in the decision of the supreme court of Idaho in the case of the State v. Nelson, 34 Idaho, 713.

“Trustee Arthur J. Harwood moved the adoption of the said resolution, which motion was second by Trustee D. R. McCord, which said motion was put

through an aye and nay vote, and the following trustees, D. F. Clark, aye; Arthur J. Harwood, aye; C. B. Johnson, aye; Elmer Olson, aye; D. R. McCord, aye; voted 'aye', and none 'nay', and the motion was by the chairman declared carried and the said resolution adopted.

"Thereupon the question of the adoption of the said ordinance was put to an 'aye' and 'nay' vote, and all trustees, to-wit: D. F. Clark, Arthur J. Harwood, D. R. McCord, Elmer Olson and C. B. Johnson, voted 'nay' and against the adoption and passage of said ordinance, and the chairman on behalf of all trustees directed the village attorney to prepare a new ordinance in conformity with the provisions of said resolution, to be presented at the regular meeting of the board on February 24, 1924. Moved and seconded that we adjourn. Carried.

"Joseph L. Martin, *Clerk.*

D. F. Clark, *Chairman.*"

Page 238, plaintiff's exhibit 5 is a record of the proceedings of the village trustees May 7, 1923.

MR RAY: I offer in evidence Government's exhibit No. 5-C, page 238, beginning with the third paragraph, and including the entire page.

MR. NUZUM: In behalf of my clients, I desire to object to any of these records of the Village of Mullan—I think they are competent, but I make this suggestion that there is a lot of stuff in there, such as passing on bills, and so-forth, that I do not see can have

anything to do with this transaction—contract with the electric company, and all that stuff, simply encumbers the record.

MR. RAY: If counsel will permit, I shall only read that portion of it—this is offered only for the purpose of showing the election of certain defendants as officials of the Village of Mullan.

THE COURT: If that is the purpose, it will be admitted.

MR. RAY: I will read it to the jury.

THE COURT: Very well.

MR. RAY: (Reading)

PROCEEDINGS OF THE RETIRING VIL- LAGE TRUSTEES, MAY 7th, 1923.

The biennial election returns were canvassed, of the election held in the Village of Mullan on the 24th day of April, 1923, and the returns from said election, as certified to the said Board of Trustees by the Judges and Clerks of said election, were opened in the presence of all the members of the Board of Trustees, and the Village Clerk, and from said returns the said Board found and does hereby find that the following named persons have received the number of votes placed opposite their respective names, to-wit: D. Forest Clark, 89; Arthur Harwood, 84; D. R. McCord, 84; Elmer Olson, 84; C. B. Johnson, 83; S. L. Thomas, 4; Arthur Heltness, 2; Samuel Duncon, 1; William Coumerth,

1; Martin Everett, 1; William Griemer, 1; John Hendrickson, 1; William McCullough, 1; Webb Leisure, 1; Henry Nyberg, 1; John Rantella, 1; George Winchester, 1.

And it appearing that the following named persons, to-wit: D. F. Clark, Arthur Harwood, C. R. McCord, Elmer Olson and C. B. Johnson, had received more votes for the office of Village Trustees than any of the other persons voted for at said election, the last said five named persons, were declared duly elected as Village Trustees for the said Village of Mullan for the term to be determined by lot as provided by law, and the Village Clerk was directed to issue a certificate of election to each of said last named persons, as the law provided. R. J. McLeod, W. J. McEacheran, J. R. Gaseheer, S. L. Thomas, Trustees.

Thereupon the City Clerk, Joseph L. Martin, issued the legally authorized certificates to each member elected, which certificates are on file. (See minutes of new book for this paragraph.)

At this time it was determined by lot that the Trustees elected at the last election should hold their offices as follows: Arthur Harwood and C. B. Johnson, for two years from the first Monday in May, 1923, and the Trustees Elmer Olson, D. F. Clark and D. R. McCord, for four years from the first Monday in May, 1923. The said determination by lot being made by placing five pieces of paper of identical size, texture and weight in a hat, on three were written the words "four years" and on two were written the words "two years", and

the respective trustees drew the said slips from said hat without what they drew being understood. That those drawing the slips with "four years" were to hold office for four years, and those with the words "two years" were to hold office for two years; and such lot resulted in the above-named trustees, D. F. Clark, D. R. McCord and Elmer Olson drawing the slips containing the words "four years", and the said trustees, C. B. Johnson and Arthur Harwood drawing the slips containing the words "two years."

Q. Calling your attention to page 267, plaintiff's exhibit 5, for identification, I will ask you generally what that purports to be?

A. That is a record of the proceedings of the Village Trustees of Mullan, May 4th, 1925.

MR. RAY: I offer in evidence as plaintiff's exhibit 5-D, page 267, having to do with the election returns of the Village Trustees.

MR. NUZUM: For the same purpose?

MR. RAY: Yes.

MR. NUZUM: On the part of Mr. Bloom and Mr. Weniger, I object to it as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

MR. GRIFFIN: (Reading)

"The returns of the Village Election held April 28th, 1925, was handled by the Board, which returns made by the Election Board and Clerk are as follows, to-wit:

"The Board finding the election regular and the Judges' returns correct, declared the three regular can-

didates, John Wheatley, Arthur J. Harwood and C. B. Johnson, duly elected.

“And thereupon the Village Clerk was instructed to issue certificate of election to each elected member of the Board for their respective ensuing terms, which certificate was issued and signed. The new members of the Board were duly sworn as Trustees of the Village for the ensuing terms of office.”

Q. Referring to page 342, Plaintiff's Exhibit 5 for identification, I will ask you generally what that purports to be?

A. That is the proceedings of the Village Trustees for May 2nd, 1927.

MR. RAY: I offer in evidence page 342, Plaintiff's Exhibit No. 5, designated as Plaintiff's Exhibit No. 5-E, pertaining to the election of the Trustees of the Village of Mullan.

MR. NUZUM: I object to that as incompetent, irrelevant and immaterial, on behalf of Mr. Weniger and Mr. Bloom.

THE COURT: Overruled. The exhibits will be admitted.

MR. GRIFFIN: (Reading)

“The canvassing of the election returns was first considered:

“Thereupon, it was moved and seconded that the returns of the biennial election held April 26, 1927, be canvassed. Unanimously carried. Thereupon the returns were opened, examined and canvassed; and from the same it was found that the following candidates

each received the number of votes set opposite their respective names, for the office of trustees for the Village of Mullan, to-wit:

Henry Foss	265	votes
John Wheatley	246	votes
Gust Almquist	198	votes
Charles Ristau	278	votes
Elmer Olson	192	votes
Richard Adams	213	votes

“Thereupon, the Trustee Harwood offered the following resolution:

“Whereas, on the 26th day of April, 1927, the regular biennial election was held in the Village of Mullan, Idaho, for the purpose of electing three Village Trustees, each to serve for the period of four years, and,

“Whereas, it appears that notice of said election was given in the manner and for the time provided by law, and the same was in all respects conducted in the manner provided for by law; and,

Whereas, it appears from a canvass of the returns of said election, this day made by the Board, that the following named candidates received the number of votes set opposite their respective names, to-wit:

Henry Foss	265	votes
John Wheatley	246	votes
Gust Almquist	198	votes
Charles Ristau	278	votes
Elmer Olson	192	votes
Richard Adams	213	votes

And it appearing that Henry Foss, Charles Ristau

and John Wheatley received the highest number of votes cast, and that each received a majority of all of the votes cast; therefore,

Be it resolved that Henry Foss, Charles Ristau and John Wheatley be and they hereby are declared the duly elected Trustees of the Village of Mullan, each to serve for the term of four years commencing with the first Tuesday in May, 1927.

Thereupon, Mr. Harwood moved the adoption of the foregoing resolution. The motion was seconded by Elmer Olson, and thereupon being put to a vote was unanimously carried."

Q. I show you page 318, of Plaintiff's Exhibit 5 for identification, and will ask you to state what proceedings appear on the first of that page?

A. Those are proceedings of the Village Trustees for May 6th, 1929.

MR. RAY: We offer in evidence as Plaintiff's Exhibit 5-F, that portion of page 588, of the minutes of the Village of Mullan having reference to the election returns had May 6, 1929.

MR. NUZUM: The same objection on behalf of Weniger and Bloom.

THE COURT: Overruled.

MR. GRIFFIN: That portion pertaining to the election reads:

"The returns of the biennial election of April 3rd, 1929, was handled, and the Clerk a certificate of the returns as reported by the Election Board was read, which showed that when the Election Board organized,

John McLeod, a member of the Board, was unable to attend and William Dean was appointed a Judge in his place. Mr. Gerald Monroe, a Clerk of the Board, was absent, and his wife was appointed to fill the vacancy. The Election Board was then composed of the following members: Judges: J. A. Glow, R. A. Martin and William Dean; Clerks: Mrs. Charles Ristau, Mrs. Tom Dooling and Mrs. Gerald Monroe. The Clerk then offered to open the sealed returns of said Board. The tabulated returns as presented by the Clerk showed that out of 421 voters registered, 349 had voted at the election; and that there were cast for the independent ticket, Arthur J. Harwood, 188 votes; for John Taylor, 162 votes, and for the Citizens ticket, W. H. Pruter, 158 votes and for George F. Price, 183 votes. The Board then declared by regular resolution, duly moved and second, that Arthur J. Harwood of the independent ticket and George F. Price of the Citizens ticket whom, having received a majority of all of the votes cast, to be duly elected Trustees of the Village of Mullan, for the four-year term, beginning May 6th, 1929. Unanimously carried. The new Trustees were then sworn in by the Village Clerk.

MR. GRIFFIN: I will read this paragraph above here:

“The question of Trustee Foss continuing as a member of the Board was presented and discussed. Mr. Foss stated that he is returning to Mullan with his family, and that he would continue on the Board if it was satisfactory to the other members. His declara-

tion of intention to return, was accepted by the Board, and Mr. Foss was continued a member.”

Q. Referring to pages 300 and 301, Plaintiff’s Exhibit No. 5 for identification, I will ask you to state what proceedings those are, beginning at the lower part?

A. Those are proceedings of the Village Trustees in regular session for December 7th, 1925, and continued on page 301.

MR. RAY: We offer in evidence as Plaintiff’s Exhibit No. 5-G, that portion of the minutes of the Village of Mullan of December 7th, 1925, having to do with the appointment of a Chief of Police.

MR. POTTS: I object to that as incompetent, irrelevant and immaterial.

MR. NUZUM: The same objection.

THE COURT: The objection will be overruled and the exhibit admitted.

MR. GRIFFIN: (Reading)

“The Village Trustees met in regular session at 7:30 p. m., December 7, 1925. Roll call, present: Charles B. Johnson, chairman; John Wheatley, Elmer Olson, A. J. Harwood and C. F. Clark. J. F. Martin, Clerk, and J. W. Florin, acting Chief of Police, were also present.

“The question of further consideration of the question of the resignation of the Chief of Police was taken up.

“Mr. A. J. Harwood moved that we elect Larry Dooling to complete the unexpired term of W. A. Pep-

per; J. W. Florin was placed in nomination; the voting was by ballot; roll call; resulted for Larry Dooling, C. F. Clark, aye; A. J. Harwood, aye; for J. W. Florin, John Wheatley, aye; C. B. Johnson, aye; and Elmer Olson, aye; J. W. Florin, having received the majority of the votes, was declared elected by the chairman."

Q. Referring now to pages 342 and 343 of Plaintiff's Exhibit 5, beginning at the lower end of page 342, Mr. Martin, I will ask you to state generally what that purports to be?

A. That is the proceedings of the Village Trustees in regular session for May 2nd, 1927, and continues on page 343.

MR. RAY: I offer in evidence as Plaintiffs' Exhibit No. 5-H, that portion of the minutes pertaining to the election of the Chief of Police.

MR. POTTS: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Objections overruled. Let the record show that counsel for Mr. Bloom and Mr. Weniger have the same objection, and it was overruled.

MR. GRIFFIN: (Reading)

"Present, A. J. Harwood, John Wheatley, Charles Ristau, Henry Foss, and newly-elected and incoming members, John Wheatley and C. B. Johnson being the holdovers from the old board, were also present.

"The chairman then declared the election of a Chief of Police to be in order. The Clerk read the following applications for the position: From M. D. Needham, F. O. Welch and H. H. Muchmore. Mrs. J. L. Mar-

tin acting as teller. The nomination of Mr. Welch was accompanied by a petition from a number of citizens, requesting his election. The votes being tallied, resulted in the election of Mr. Needham. The Chairman then declared Mr. Needham unanimously elected Chief of Police for the ensuing term of two years. The Chairman then declared the election of a night policeman in order. The applications of F. O. Welch, H. H. Noll, M. C. Haggard, were read. The votes being tallied, resulted in the unanimous election of F. O. Welch as night policeman. The Chairman then declared him elected. The Chief of Police and the night policemen were sworn in and went on duty at 9:00 o'clock p. m.

MR. RAY: I may state to the Court and counsel, that I desire to show the members in attendance at the Village Board meeting, from May 2nd, 1927, through to November, 1928, during the period in which Chief of Police Needham was Chief of Police, and I will ask if it is necessary to introduce—if counsel will object to the formal reading from the minutes the names of those present, or will you insist upon introducing every meeting.

MR. NUZUM: I have no objection to the manner, but I desire to make the same objection, incompetent, irrelevant and immaterial.

THE COURT: The objection on other grounds will be overruled. I understand there is no objection to the manner of proving who was present. You may read them to the jury.

MR. GRIFFIN: (Reading)

“Meeting of May 2nd, 1927. Roll call, present: A. J. Harwood, John Wheatley, Charles Ristau, Henry Foss, the newly elected and incoming members: John Wheatley and C. B. Johnson being the holdovers from the old board, were also present.

Meeting June 6, 1927: Present, A. J. Harwood, Chairman, Henry Foss, Charles Ristau, John Wheatley and Park Huston, J. L. Martin, Clerk; M. C. Needham, Chief of Police; William Downs, Street Overseer, and H. J. Howell Village Counsel, were also present.

Meeting of July 6, 1927; Roll Call, Present: A. J. Harwood, Chairman, Henry Foss, Park Huston; absent, John Wheatley, J. L. Martin, Clerk; M. D. Needham, Chief of Police, and William Downs, Street Overseer, were also present.

Regular session of August 1st, 1927. Roll Call: Present: A. J. Harwood, Chairman, Charles Ristau, John Wheatley, George Huston, Henry Foss, J. L. Martin, Clerk, M. D. Needham, Chief of Police and William Downs, Street Overseer, were also present.

Regular session of September 6th, 1927. Roll call: Present: A. J. Harwood, Chairman, John Wheatley, Charles Ristau, Henry Foss and George Huston, also, Mr. Howell, Village Counsel and William Downs, Street Overseer, M. D. Needham, Chief of Police and Mrs. J. L. Martin, acting Village Clerk.

Regular session, October 3, 1927. Roll call showed the following present: A. J. Harwood, Chairman, Charles Ristau, George Huston, John Wheatley and

Henry Foss. J. L. Martin, Clerk, and M. D. Needham, Chief of Police, William Downs, Street Overseer and H. J. Hull, Village Counsel, were also present.

Regular session, November 7th, 1927. Roll call: Present: A. J. Harwood, Chairman, Charles Ristau, George Huston, John Wheatley; absent, Henry Foss. J. L. Martin, Clerk, M. D. Needham, Chief of Police and William Downs, Street Overseer, were also present.

Regular session, of December 5, 1927. Roll call, present: A. J. Harwood, Chairman, George Huston, Charles Ristau, John Wheatley; absent, Henry Foss. J. L. Martin, Clerk, M. D. Needham, Chief of Police and William Downs, Street Overseer, were also present.

Regular session, January 3rd, 1928: Roll call, present: A. J. Harwood, Chairman, George Huston, Charles Ristau, John Wheatley. Absent, Henry Foss, J. L. Martin, Clerk, and M. D. Needham, Chief of Police and William Downs, Street Overseer were also present.

Regular session, February 7th, 1928. Roll call, present: A. J. Harwood, Chairman, George Huston, Charles Ristau, Henry Foss. Absent, John Wheatley. J. L. Martin, Clerk and M. D. Needham were also present and William Downs, Street Overseer.

Regular session, March 5th, 1928. Roll call, present: A. J. Harwood, Chairman, George Huston, Charles Ristau, John Wheatley, Henry Foss, A. J. Hull, Village Counsel, J. L. Martin, Village Clerk, William Downs, Street Overseer, and M. D. Needham, Chief of Police, were also present.

Regular session, April 2nd, 1928. Roll call, present: A. J. Harwood, Chairman, George Huston, John Wheatley, Henry Foss. Absent, Charles Ristau. J. L. Martin, Clerk, H. J. Hull, Village Counsel, and M. D. Needham, Chief of Police and William Downs, Street Overseer, were also present.

Regular session, May 7th, 1928. Roll call, present: A. J. Harwood, Chairman, George Huston, Charles Ristau, Henry Foss, John Wheatley. J. L. Martin, Clerk, A. J. Hull, village counsel, M. D. Needham, Chief of Police and William Downs, street overseer, were also present.

Regular session, June 4th, 1928. Roll call, present: A. J. Harwood, Chairman, Charles Ristau, George Huston, John Wheatley. J. L. Martin, clerk, and A. J. Hull, counsel and M. D. Needham, chief of police and William Downs, street overseer, were also present. Absent, Henry Foss.

Regular session, July 2nd, 1928. Roll call, present: A. J. Harwood, Chairman, George Huston, Charles Ristau, John Wheatley and Henry Foss. A. J. Hull, village counsel and M. D. Needham, Chief of Police and J. L. Martin, village clerk, were also present.

Regular session, August 6th, 1928. Roll call, present: A. J. Harwood, Chairman, John Wheatley, Henry Foss, George Huston. Absent, Charles Ristau. A. J. Hull, village counsel, J. L. Martin, Clerk, M. D. Needham, Chief of Police and William Downs, Street Overseer, were also present.

Regular session, September 4th, 1928. Roll call,

present: A. J. Harwood, Chairman, Charles Ristau, George Huston, John Wheatley. Absent, Henry Foss. A. J. Hull, village counsel, J. L. Martin, Clerk, and M. D. Needham, Chief of Police, were also present.

Regular session, October 1st, 1928. Roll call, present, A. J. Harwood, Chairman, Charles Ristau, George Huston, John Wheatley. Absent, Henry Foss. A. J. Hull, attorney, J. L. Martin, Clerk and M. D. Needham, Chief of Police, were also present.

Regular session, October 10th, 1928. Roll call, present: A. J. Harwood, Chairman, Charles Ristau, George Huston, John Wheatley and Henry Foss. H. J. Hull, attorney, J. L. Martin, Clerk and M. D. Needham, were also present. Absent, none.

Regular session, November 5th, 1928. Roll call, present: A. J. Harwood, Chairman, George Huston, Charles Ristau and John Wheatley. J. L. Martin, Clerk, and M. D. Needham, Chief of Police, were also present.

“Regular session, December 3rd, 1928. Roll call, present: A. J. Harwood, Chairman, Charles Ristau, John Wheatley, George Huston. Absent, Henry Foss. H. J. Hull, village counsel, and J. L. Martin, Clerk, were also present.”

Witness Martin (continuing)

As Village Clerk I attended to the issuing of licenses under Ordinance No. 105 after 1924. A form was prepared with the stub attached. Plaintiff's Exhibit 6, including 6-A to 6-1, both inclusive, are stub receipts for the licenses issued for the village for the various lines

of business conducted in Mullan during the years of 1924 to 1929, July 1st. The stub books contain the licenses for each of the several months during that period, except a portion of 1925. I have been unable to find it. That stub book is missing. I do not know how much of it was in 1925. I have endeavored to find it in the office and these stubs are a part of the files of the Village of Mullan. Exhibit 6-J is the stub receipts of license for a part of the year 1928; begins with August.

MR.. RAY: I renew the offer of plaintiff's Exhibit 6-A to 6-I, both inclusive.

MR. NUZUM: On behalf of the defendants I represent, I object as incompetent, irrelevant and immaterial.

THE COURT: The objections will be overruled and the exhibits admitted.

MR. RAY: Q. Mr. Martin, what was your practice as clerk with respect to issuing the monthly license for soft drink license?

A. On the first of each month, I wrote out the soft drink license for each soft drink parlor and delivered them to the Chief of Police for the month current.

I did not instruct the Chief of Police. The Chief took the licenses away from the office is all I know that he did with this license. He returned with the money thereafter and represented that he had collected fees represented by those licenses. The money was deposited in the bank. I entered it upon the cash book as treasurer and deposited it in the bank. I entered notations each and every month. There may have been an occasional

oversight in marking the stub paid. The money was deposited in the general fund. Exhibit No. 2 is a volunteer subscription list prepared by myself and given to the Chief of Police at the beginning of each month which states at the head what it is. I gave the Chief no instructions. Afterwards the chief returned these sheets to me with collections noted, for which sometimes I would receipt on the slip the entire amount received; other times portions of the amount received, as he might turn it in from time to time, and that money I deposited to the credit of the Village of Mullan as treasurer. At the end of the month those slips in Exhibit No. 2 were delivered to me. I received them, marked them for the current month, and filed them in the files of the village of Mullan, and they are a part of the files of the village. Exhibit No. 7, for identification, is subscription list prepared, which I prepared, and gave to the Chief of Police for volunteer subscriptions to the current fund of the village. It purports to cover a period from month to month. The first one covers May, 1925. It requires the two combined to make May. The next one covers June, turned in to me July 2, 1925. They cover month to month beginning with May, 1925 to June 1, 1929.

Q. I will ask you to observe plaintiff's Exhibit No. 7 for identification with relation to plaintiff's Exhibit No. 2 and state whether plaintiff's Exhibit No. 7 purports to cover the period of time from May, 1925 to June 1929 with the exception of the time covered by plaintiff's Exhibit No. 2. Examine it carefully.

MR. NUZUM: I object to it as incompetent, irre-

levant and immaterial on behalf of the defendants I represent.

THE COURT: It has not been offered yet.

A. It does.

MR. RAY: Q. Is plaintiff's exhibit No. 7 part of the files of the Village of Mullan?

A. It is.

Q. Did you pursue the same practice with respect to plaintiff's Exhibit No. 7 that you did with respect to plaintiff's Exhibit No. 2, when these slips were delivered to you from month to month?

A. I did.

Q. And deposited the money to your credit as to the treasurer of the Village of Mullan?

A. Yes sir. In each and every instance.

MR. RAY: We offer in evidence plaintiff's Exhibit No. 7.

PLAINTIFF'S EXHIBIT NO. 7

Mullan, Idaho, May, 1925.

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Street and Bridge Improvements, and the Inadequate provision made by Taxation to meet this needed improvement and Improvements in the Village, WE, The undersigned citizens hereby subscribe and pay to the Village of Mullan for said purposes, the amounts set opposite our respective names, upon our own initiative, for a Street and Bridge Fund.

Mike Conovich	\$25.00
Andy Haeiko	25.00
Chas Fond	25.00
John C. Taylor	25.00
M. F. LeGore	25.00
Edw. Johnson, Central Hotel	25.00
The Bolo	25.00
Mary Norman	25.00
Annie Tornberg	25.00
Alga Wickman	25.00
Nick Floroe	25.00
Mutt Mak	25.00

(MAY BRIDGE FUND, 1925)

Mullan, Idaho, May, 1925.

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Street and Bridge Improvements, and the Inadequate provision made by Taxation to meet this needed improvement and Improvements in the Village, WE, The undersigned citizens hereby subscribe and pay to the Village of Mullan for said purposes, the amounts set opposite our respective names, upon our own initiative, for a Street and Bridge Fund.

Chas. Fond	\$25.00
The Paronto Pool Hall	25.00
The Bolo	25.00
Mike Conovich	25.00
Yellow Stone Pool Hall	25.00

Central Hotel	25.00
Nick Floroe	25.00
M. F. LaGore	25.00
John E. Taylor	25.00
Annie Tornberg	25.00
Mary Norman	25.00
D. R. Luke	25.00
Bill	25.00
Yes	25.00

Mullan, Idaho, July 2, 1925.

TO WHOM IT MAY CONCERN:

Realizing the Great Need the Village of Mullan has for Street and Bridge Improvements, and the inadequate funds provided for this purpose by Taxation; WE, The undersigned citizens hereby voluntarily subscribe and pay to the Village for said purposes, the amounts set opposite our respective names for a Street and Bridge Fund:

Central Hotel	\$25.00
M. F. LeGore	25.00
Hotel Bilberg	25.00
Andy Haisko	25.00
Paul Sarto	25.00
The Bolo	25.00
D. R. Luke	25.00
Moose Cigar Store	25.00
Annie Tornberg	25.00
Mary Norman	25.00

Mike Conovich	25.00
Street & Bridge Fund	50.00

Mullan, Idaho, Aug. 1925.

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Street and Bridge Improvements, and the Inadequate provision made by Taxation to meet this needed improvement and Improvements in the Village, WE, The undersigned citizens hereby subscribe and pay to the Village of Mullan for said purposes, the amounts set opposite our respective names, upon our own initiative, for a Street and Bridge Fund.

Chas. Fond	\$25.00
D. R. Luke	25.00
Matt Maki	25.00
Andy Hailko	25.00
M. F. LeGore	25.00
Annie Tornberg	25.00
Mrs. Wickman	25.00
Central Hotel	25.00
The Bolo, Smith & Wilcox	25.00
B	25.00
Mary N. Jackson	25.00
Mike Conovich	25.00

Victor H.

Moose

Slot

Norman

Mullan, Idaho, Sep. 1, 1925.

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Bridge and Street Improvements, and the inadequate funds provided for this purpose from Taxation, WE, The Undersigned, hereby upon our own initiative, subscribe the amount set opposite our respective names for a Street and Bridge Fund, to be used for the purpose of making improvements upon any Street or Bridge needed:

Central Hotel	25.00
M. F. LeGore	25.00
Nick Floros	25.00
Chas. Fond	25.00
The Bolo, R. O. Smith	25.00
Matt Maki Hupprensa	25.00
George Aro, Yellowstone Cigar Store	25.00
D. R. Luke	25.00
Alder Weickman	25.00
Mary Norman	25.00
Mike Conovich	25.00
Mrs. Mary Jackson	25.00
Annie Tornberg	25.00
B	25.00
Victor Hotel	25.00
Slots	25.00

Mullan, Idaho, Oct. 1, 1925.

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Bridge and Street Improvements, and the inadequate funds provided for this purpose from Taxation, WE, The Undersigned, hereby upon our own initiative, subscribe the amount set opposite our respective names for a Street and Bridge Fund, to be used for the purpose of making improvements upon any Street or Bridge needed:

Central Hotel	25.00
M. F. LeGore	25.00
Nick Feloroe	25.00
Chas Fond	25.00
Matt Maki	25.00
Olisa Eckman	25.00
Andy Haisko	25.00
The Bolo	25.00
Annie Tornberg	25.00
Marie N. Jackson	25.00
D. R. Luke	

Mullan, Idaho, Nov. 1, 1925

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Bridge and Street Improvements, and the inadequate funds provided for this purpose from Taxation, WE, The Undersigned, hereby upon our own initia-

tive, subscribe the amount set opposite our respective names for a Street and Bridge Fund, to be used for the purpose of making improvements upon any Street or Bridge needed:

Central Hotel	25.00
Chas Fond	25.00
Andy Haikko	25.00
Matt Maki	25.00
Nick Floros	25.00
John E. Taylor	25.00
M. F. LeGore	25.00
The Bolo, R. D. Smith	25.00
Annie Tornberg	25.00
Alkn Wickman	25.00
H. B.	25.00
George Bush	25.00
W. S.	25.00

Mullan, Idaho, Dec. 1, 1925.

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Bridge and Street Improvements, and the inadequate funds provided for this purpose from Taxation, WE, The Undersigned, hereby upon our own initiative, subscribe the amount set opposite our respective names for a Street and Bridge Fund, to be used for the purpose of making improvements upon any Street or Bridge needed:

Mullan Inn	\$10.00
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Farmers Cigar Store	10.00
Funk Hdw.	10.00
Central Hotel	25.00
White Front	10.00
The Bolo	25.00
The Pastime	25.00
M. F. LeGore	25.00
Hayeranda Pool Hall	10.00
Ano Co. Haiko	10.00
Red Front	10.00
Geo. Bush	15.00
Chas. Fond	35.00
H. B.	35.00
A. Haisko	10.00
H. A.	25.00

Mullan, Idaho, Jan. 2, 1926.

TO WHOM IT MAY CONCERN:

Realizing the great need the Village of Mullan has for Bridge and Street Improvements, and the inadequate funds provided for this purpose from Taxation, WE, The Undersigned, hereby upon our own initiative, subscribe the amount set opposite our respective names for a Street and Bridge Fund, to be used for the purpose of making improvements upon any Street or Bridge needed:

Central Hotel	25.00
M. F. LeGore	25.00

The Miners Club	10.00
The Bolo	25.00
The Pastime	25.00
Chas Fond	35.00
Frank Hahn	10.00
Mullan Inn	10.00
Chili Parlor	25.00
H. B.	25.00
H. A.	25.00
Geo. Bush	5.00
Yellow Stone Cigar Store	10.00
Haperonda Pool Hall	10.00
	<hr/>
	265.00

Mullan, Idaho, 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has Generously Improved the Streets the past year, and that there will be need for more improvements upon the Streets and Bridges this year, **WE THE UNDERSIGNED**, Hereby contribute, upon our own Initiative, the amounts set opposite our respective names, for a Street and Bridge **FUND**, to be used for the purpose of making improvements upon any Street or Bridge where and when needed;

Central Hotel	\$25.00
Pastime Club	25.00
M. F. LeGore	25.00

Chas. Fond	25.00
Frank Hahn	10.00
Hayarando Pool Hall	10.00
Mullan Inn	10.00
Miners Club	10.00
Yellowstone Cigar Store	10.00
The Bolo	25.00
Noodle Parlor	25.00
Geo. Bush	5.00
H. B.	25.00
H. A.	25.00
	<hr/>
	265.00

Mullan, Idaho, Mch. 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has Generously Improved the Streets the past year, and that there will be need for more improvements upon the Streets and Bridges this year, **WE, THE UNDERSIGNED**, Hereby contribute, upon our own Initiative, subscribe the amounts set opposite our respective names, for a Street and Bridge **FUND**, to be used for the purpose of making Improvements upon any street or bridge where and when needed:

Central Hotel	\$25.00
Pastime	25.00
Chas. Fond	35.00

Miners Club	10.00
Mullan Inn	10.00
Hayarando Pool Hall	10.00
M. F. LeGore	25.00
Ross Schermerhorn	10.00
The Bolo	25.00
Mrs. Lee Burns	25.00
Yellow Stone Cigar Store	10.00
Frank Hahn	10.00
Geo. Bush	5.00
H. B.	25.00
H. A.	25.00
	<hr/>
	275.00

Mullan, Idaho, Apr. 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has Generously Improved the Streets the past year, and that there will be need for more improvements upon the Streets and Bridges this year, WE, THE UNDERSIGNED, Hereby contribute, upon our own Initiative, the amounts set opposite our respective names, for a Street and Bridge FUND, to be used for the purpose of making Improvements upon any Street or Bridge where and when needed:

Pastime Club	\$ 25.00 Pd.
The Bolo Club	25.00 Pd.
M. F. LeGore	25.00 Pd.

Central Hotel	25.00 Pd.
Miners Club	10.00 Pd.
The Mullan Inn	10.00 Pd.
Haporanda	10.00 Pd.
Chas. Fond	35.00 Pd.
Yellow Stone	10.00 Pd.
Frank Hahn	10.00 Pd.
Geo. Bush	5.00 Pd.
Red Front	10.00 Pd.
Noodle Parlor	25.00 Pd.
H. B.	25.00
A. H.	25.00
	<hr/>
	275.00
	145.00
	<hr/>
	130.00

Mullan, Idaho, May 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has Generously Improved the Streets the past year, and that there will be need for more improvements upon the Streets and Bridges this year, **WE, THE UNDERSIGNED**, Hereby contribute, upon our own Initiative, the amounts set opposite our respective names, for a Street and Bridge **FUND**, to be used for the purpose of making Improvements upon any Street or Bridge where and when needed:

Pastime Club	\$ 25.00 Pd.
The Bolo	25.00 Pd.
M. F. LeGore	25.00 Pd.
Central Hotel	25.00 Pd.
Yellowstone Cigar Store	10.00 Pd.
Miners Club	10.00 Pd.
Hoparanda Pool Hall	10.00 Pd.
Chas. Fond	35.00 Pd.
Mullan Inn	10.00 Pd.
The Mullan	10.00 Pd.
Red Front	10.00 Pd.
Noodle Parlor	25.00 Pd.
Geo. Bush	5.00 Pd.
H. B.	25.00 Pd.
H. A.	25.00 Pd.
	<hr/>
	275.00

Mullan, Idaho, June 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has Generously Improved the Streets the past year, and that there will be need for more improvements upon the streets and Bridges this year, WE, THE UNDERSIGNED, Hereby contribute, upon our own Initiative the amounts set opposite our respective names, for a Street and Bridge FUND, to be used for the purpose of making Improvements upon any Street or Bridge where and when needed:

Central Hotel	\$ 25.00
M. F. LeGore	25.00
The Bolo	25.00
Pastime	25.00
Chas. Fond	35.00
Old Camer Pool Hall	10.00
Yellow Stone Cigar Store	10.00
Miners Club	10.00
The Mullan	10.00
Marble Front	10.00
The Mullan Inn	10.00
Noodle Parlor	25.00
H. A.	25.00
H. W.	25.00
H.	5.00
	<hr/>
	275.00

Mullan, Idaho, July 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets, and that the Board of Trustees have plans for many additional improvements in Streets and Bridges, for this year, **WE, THE UNDERSIGNED**, Hereby contribute, upon our own initiative, the amounts set opposite our respective names, to be placed in the Street and Bridge Fund, to be used as directed by the Village Trustees upon the Streets and Bridges when needed:

The Bolo	\$ 25.00
Pastime	25.00
Mike Conovich	25.00
K. M. Stark	25.00
Chas. Fond	25.00
M. F. LeGore	25.00
Mrs. H. Hill	25.00
Josephine Pinazza	25.00
Noodle Parlor	25.00
Mrs. Martin Everett	25.00
H. B.	25.00
A. H.	25.00
Mamie	25.00
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	350.00

Mullan, Idaho, Aug. 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets, and that the Board of Trustees have plans for many additional improvements in Streets and Bridges, for this year, WE, THE UNDERSIGNED, hereby contribute, upon our own initiative, the amounts set opposite our respective names, to be placed in the Street and Bridge Fund, to be used as directed by the Village Trustees upon the Streets and Bridges when needed:

Chas. Fond	\$ 25.00
Central Hotel	25.00

Giosefin Pinazzi	25.00
M. F. LeGore	25.00
Pastime	25.00
Mrs. K. M. Stark	25.00
Mike Conovich	25.00
The Bolo	25.00
Mrs. Martin Everett	15.00
Noodle Parlor	25.00
Mrs. H. Hill	25.00
H. B.	25.00
A. H.	25.00
Mamie	25.00
	<hr/>
\$340.00	340.00
Sept. 1st, J. L. M.	

Mullan, Idaho, Sep. 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets, and that the Board of Trustees have plans for many additional improvements in Streets and Bridges, for this year, WE, THE UNDERSIGNED, hereby contribute, upon our own initiative, the amounts set opposite our respective names, to be placed in the Street and Bridge Fund, to be used as directed by the Village Trustees upon the Streets and Bridges when needed:

Pastime Club	\$ 25.00
The Bolo	25.00

Jiosefin Pinazzi	25.00
Mrs. K. Stark	25.00
Chas. Fond	25.00
Noodle Parlor	25.00
Central Hotel	25.00
M. F. LeGore	25.00
Mrs. H. Hill	25.00
H. B.	25.00
A. H.	25.00
	<hr/>
	275.00

	Sept. 8th	85.00
		30.00
		35.00
		<hr/>
		150.00

Mullan, Idaho, Sept. 3rd, 1926.

TO THE VILLAGE TRUSTEES
OF MULLAN, IDAHO:

We, the undersigned business houses and citizens interested in the Protection of the Village from Fire and Burglary, and for the peace and orderly government of the community, hereby subscribe the amounts set opposite our respective names for a special Monthly Fund to employ a Night Policeman. The said fund to

be used strictly for police purposes:

J. A. Slover	10.00
Chas. Fond	10.00
The Bolo	10.00
Pastime Club	10.00
Mullan Garage	10.00
Home Toggery	10.00
M. F. LeGore	10.00
Taylor Motor Co.	10.00
Folys Garage	10.00
Snome Garage	10.00
Independent	
Market	10.00
Central Hotel	10.00
August Flink	\$10.00
Mrs. Beck	10.00
Ida Anderson	10.00
Steam Baths	10.00
Mrs. Wickman	10.00
Mrs. Pasvola	10.00
Eugenia Mingo	10.00
First National Bank	
Mullan, Idaho	
J. F. Wilson	5.00
City Bakery	5.00

Mullan, Idaho, Oct. 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets, and that the Board of Trustees have plans for many additional improvements in Streets and Bridges, for this year, WE THE UNDERSIGNED, Hereby contribute, upon our own initiative, the amounts set opposite our respective names, to be placed in the Street and Bridge Fund, to be used as directed by the Village Trustees upon the Streets and Bridges when needed:

Mrs. K. Stark	\$ 25.00
Jiosefin Pinazzi	25.00
M. F. LeGore	25.00
Central Hotel	25.00
Noodle Parlor	25.00
Pastime Club	25.00
Chas. Fond	25.00
Annie Tornberg	25.00
Mrs. A. Hill	25.00
The Bolo	25.00
H. B.	25.00
A. H.	25.00
	<hr/>
	300.00

O. K. J.L.M.

Mullan, Idaho, Oct. —, 1926.

TO THE VILLAGE TRUSTEES
OF MULLAN, IDAHO:
GENTLEMEN:

We, the undersigned business houses and citizens interested in the protection of Village from Fire and Burglary, subscribe the amounts set opposite our respective names for a Monthly Special Police Fund, to place a Night Policeman on for the said protection, Peace and Orderly Government. The said fund to be used strictly for Police purposes:

J. A. Glover	10.00 Pd.
Taylor Motor Co.	10.00 Pd.
Wallace Lbr. Co.	5.00 Pd.
Snomi Garage	5.00 Pd.
A. Flink	\$10.00 Pd.
Mrs. Wickman	10.00 Pd.
Mrs. Ponalla	10.00 Pd.
M. F. LeGore	10.00 Pd.
Mullan Garage	10.00 Pd.
Pastime	10.00 Pd.
Home Toggery	10.00 Pd.
Hotel Bilberg	10.00 Pd.
Mrs. Anderson	10.00 Pd.
Daniel Connors	10.00 Pd.
Central Hotel	10.00 Pd.
First National Bank	

Mullan, Idaho

J. F. Wilcox 5.00 Pd.

	115.00
Meat Market	10.00
	125.00
	60.00
	45.00
	170.00

Mullan, Idaho, Nov. 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets and that the Board of Trustees have plans for many additional improvements in Streets and Bridges, for this year, **WE THE UNDERSIGNED**, Hereby contribute, upon our own initiative, the amounts set opposite our respective names, to be placed in the Street and Bridge Fund, to be used as directed by the Village Trustees upon the Streets and Bridges when needed:

Pastime Club	\$ 25.00
Noodle Parlor	25.00
M. F. LeGore	25.00
Annie Tornberg	25.00
Jiosefin Panazzi	25.00

Mrs. H. Hill	20.00
The Bolo	25.00
H. B.	25.00
H. A.	25.00
Mrs. Storcki	20.00
Central Hotel	25.00 Pd.
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	290.00

Mullan, Idaho, Nov. 1, 1926.

TO THE VILLAGE TRUSTEES

OF MULLAN, IDAHO:

GENTLEMEN:

We, the undersigned business houses and citizens interested in the protection of Village from Fire and Burglary, subscribe the amounts the amounts set opposite our respective names for a Monthly Special Police fund, to place a Night Policeman on for the said protection, Peace and Orderly Government. The said fund to be used strictly for Police purposes:

Taylor Motor Co.	\$ 10.00
M. F. LeGore	10.00
Chas. Fond	10.00
Mullan Garage	5.00
First National Bank, Mullan, Idaho	5.00
A. G. Silfrost	5.00
Morrow Retail Store	5.00

Independent Market	10.00
	60.00
	85.00
	<hr/>
	145.00
Mr. Flink	10.00
Mrs. Anderson	10.00
Mrs. Wickman	10.00
Mrs. Taballa	10.00
Home Toggery	10.00 Pd.
Central Hotel	10.00
J. A. Glowe	10.00
Wallace Lbr. Co.	5.00
Pastime Club	10.00
	<hr/>
	85.00

Mullan, Idaho, Dec. 1, 1926.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets, and that the Board of Trustees have plans for many additional improvements in Streets and Bridges, for this year, WE THE UNDERSIGNED, Hereby contribute, upon our own initiative, the amounts set opposite our respective names to be placed in the Street and Bridge Fund, to be used as directed by the Village Trustees upon the Streets and Bridges when needed:

Pastime Club	\$25.00
M. F. LeGore	25.00
Annie Tornberg	25.00
Jiosefin Pinazza	25.00
Chas. Fond	25.00
Central Hotel	25.00
Bolo	25.00
Noodle Parlor	25.00
K. M. Stark	25.00
Mrs. A. Hill	20.00
A. H.	25.00
H. B.	25.00
	<hr/>
	295.00

Mullan, Idaho, Dec. 1, 1926.

TO THE VILLAGE TRUSTEES
OF MULLAN, IDAHO:
GENTLEMEN:

We, the undersigned business houses and citizens interested in the protection of Village from Fire and Burglary, subscribe the amounts set opposite our respective names for a Monthly Special Police fund, to place a Night Policeman on for the said protection, Peace and Orderly Government. The said fund to be strictly for Police purposes:

M. F. LeGore	10.00
J. A. Glowe	10.00

Home Toggery	10.00
Taylor Motor Co.	10.00
Chas. Fond	10.00
Central Hotel	10.00
Mothers Cafe	10.00
First National Bank, Mullan, Idaho	5.00
Mike Conovich	10.00
	<hr/>
	85.00
	75.00
	<hr/>
	1 60.00
	135.00
	<hr/>
	25.00 Bal.
Mr. Frink	10.00
Mrs. Anderson	10.00
Mrs. Pavalla	10.00
Mrs. Wickman	10.00
Nick DeMars	10.00
Wallace Lbr. Co.	5.00
Morrow Retail Store	5.00
Louie Zalnernik	10.00
John Sekulic	5.00
	<hr/>
	75.00

VILLAGE OF MULLAN

November 1, 1924.

TO WHOM IT MAY CONCERN:

Knowing the great need the Village of Mullan has for Street and Bridge Improvements, and the inadequate funds provided for this purpose by taxation, we, the Undersigned, hereby subscribe the amount set opposite our respective names for a Street and Bridge Fund, to be used for the purpose of said improvements:

Peter Zounick, Stack Hokna St.	\$25.00 Paid
Emil Johnson, Central Hotel	25.00 Paid
John Maki Hoproter Bar	25.00 Paid
Tona Partty, Yellowstone Cigar Str.	25.00 Paid
The Bolo, R. V. Smith	25.00 Paid
John Hartoto, Pool Hall	25.00 Paid
Red Front, Pool Hall	25.00 Paid
Matt Krobat, Montana Pool	25.00 Paid
Victor Hotel, Club	25.00 Paid
Bilberg Hotel	10.00 Paid

Mullan, Idaho, Dec. 1, 1924.

TO WHOM IT MAY CONCERN:

Knowing the great need the Village of Mullan has for Street and Bridge Improvements, and the Inadequate funds provided for this purpose by Taxation, WE THE UNDERSIGNED, hereby subscribe the amount set opposite our respective names for a Street

and Bridge Fund, to be used for the purpose of making said improvements:

Stone and Tovgard Pool Hall	25.00 Paid
Matt Krobat Pool Hall	25.00 Paid
Yellowstone Cigar Store	25.00 Paid
Matt Maki Pool Hall	25.00 Paid
Central Hotel, Ed. Johnson	25.00 Paid
Hance Sole Pool Hall	25.00 Paid
Nick Floroe, Harry Pappers	25.00 Paid
Chas. Fond, Hotel Bilberg	25.00 Paid
The Bolo, Smith & Wilcox	25.00 Paid
M. F. LeGore	25.00 Paid
Peter Zounick	25.00 Paid
Wm. Hedlund	25.00 Paid
Goe Scott Campbell	25.00 Paid
John Taylor Club	25.00 Paid
Whale	25.00 Paid
Idaho Hole Sale	25.00 Paid

Mullan, Idaho, Dec. 1, 1924.

TO WHOM IT MAY CONCERN:

Knowing the great need the Village of Mullan has for Street and Bridge Improvements, and the Inadequate funds provided for this purpose by Taxation, WE, THE UNDERSIGNED, hereby subscribe the amount set Opposite our respective names for a Street and Bridge Fund, to be used for the purpose of making said improvements:

Peter Zounick, Slack Holman	\$25.00 Paid
Matt Korbatt, Mont. Bar	25.00 Paid
M. F. LeGore Pool Hall	25.00 Paid
Johnson & Anderson, Central Club	25.00 Paid
Hans Sole, Red front	25.00 Paid
Mike Dinurin, Moose Club	25.00 Paid
Smith & Wilcox, Bolo Club	25.00 Paid
Bilberg Hotel	10.00 Paid
John Maki, Hapnala Bar	25.00 Paid
John Rantala, Mullan Pool Hall	25.00 Paid
Yellowstone Cigar Store	25.00 Paid
Victor Club	25.00 Paid
Whale	25.00 Paid
Idaho Hole Sale	50.00 Paid
Annie Tornberg	25.00 Paid
Bell Russell	25.00 Paid
Mary Norman	25.00 Paid
Olga Wickmin	25.00 Paid
Mary N. Jackson	25.00 Paid
Mary Smith	25.00 Paid
Wm. Hedlund	25.00 Paid
Mike Conavi	25.00 Paid

Mullan, Idaho, Jan. 1, 1927.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many Improvements in the Streets, during the past year, and that there is many improvements yet needed in both Streets and Bridges for the year 1927. WE, THE UN-

DESIGNED, hereby contribute upon our own Initiative, the amounts set opposite our respective names, to be used as directed by the Village Trustees for Improvements on the Streets and Bridges for the month of, 1927:

The Bolo	\$25.00
Chas. Fond	35.00
Pastime Club	25.00
Noodle Parlor	35.00
Central Hotel	35.00
Quick Lunch	35.00
M. F. LeGore	25.00
Mullan Pool Hall	10.00
Babe Murray	10.00
Miners Club	10.00
Bertha Stran	10.00
The Mullan Inn	10.00
Marble Club	10.00
Yellowstone	10.00
H. B.	25.00
H. A.	25.00

Mullan, Idaho, Feb. 1, 1927.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many Improvements in the Streets, during the past year, and that there is many improvements yet needed in both Streets and Bridges for the year 1927, WE,

THE UNDERSIGNED, hereby contribute upon our own Initiative, the amounts set opposite our respective names, to be used as directed by the Village Trustees for Improvements on the Streets and Bridges for the month of, 1927:

CENTRAL HOTEL	\$35.00
M. F. LeGore	35.00
Chas. Fond	35.00
Quick Lunch	35.00
Noodle Parlor	35.00
The Mullan Inn	10.00
J. P. Ainsworth	10.00
Max Slude	10.00
Muckers Club	10.00
The Mullan	10.00
The Miners Club	10.00
H. B.	25.00
H. A.	25.00
	<hr/>
	285.00
	140.00
	<hr/>
Street & Bridge	145.00
Mch. 5, 1927	\$145.00
Feb. 26 "	140.00
	<hr/>
	285.00

Mullan, Idaho, Mch. 1, 1927.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets, during the past year, and that there is many improvements yet needed in both Streets and Bridges for the year 1927, WE THE UNDERSIGNED, hereby contribute upon our own initiative, the amounts set opposite our respective names, to be used as directed by the Village Trustees for Improvements on the Streets and Bridges for the month of March, 1927:

M. F. LeGore	\$35.00
Chas. Fond	35.00
Noodle Parlor	35.00
Central Hotel	35.00
Quick Lunch	35.00
Babe Kelly	10.00
Mucker Club	10.00
Max Slade	10.00
Mullan Pool Hall by Chas. Hartley	10.00
The Mullan Inn	10.00
Miners Club	10.00
Marble Club	10.00
A. P. Ainsworth	10.00
Norman Stevens	10.00
The Bolo	10.00
H. B.	25.00
H. A.	25.00
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	\$325.00

Mullan, Idaho, Apr. 1, 1927.

TO WHOM IT MAY CONCERN:

Realizing that the Village of Mullan has made many improvements in the Streets, during the past year, and that there is many improvements yet needed in both Streets and Bridges for the year 1927, **WE THE UNDERSIGNED**, hereby contribute upon our own initiative, the amounts set opposite our respective names, to be used as directed by the Village Trustees for Improvements on the Streets and Bridges for the month of April, 1927:

M. F. LeGore	\$35.00
Central Hotel	25.00
Mullan Pool Hall	10.00
Josefin Pinazzi	25.00
The Mullan Inn	10.00
Marble Club	10.00
Muckers Club	10.00
Chas. Fond	25.00
H. B.	25.00
H. A.	25.00
	190.00

Mullan, Idaho, Nov. 1, 1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, is \$445,352.25 and a levy of Fifteen (15) Mills, which is the maximum levy allowed by

law to be made by the Trustees of said Village for General Revenue purposes, will produce approximately \$6,500.00—and

WHEREAS, It requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and sewers therein, now

THEREFORE, the undersigned residents of said Village do hereby, in order to assist in the maintenance of said Village Government, VOLUNTARILY contribute to the General Fund of said Village, the sum set opposite our respective names to be used for the maintenance of the said Village Government:—

NAME	DATE	AMOUNT
Cash	Recd.	(\$ 35.00
Coffee Shoppe	67.50 71.25	(7.50
	J.L.M. R.M.M.11-8-28	(
Smoke House		(25.00
Betty From D. Needham	Recd. 11-9-28	(
J.L.M. RMM		(3.75
Legore Store		(35.00
Cash		(15.00
Mrs. J. Pozer		(5.00
Cash	11-22-'28	(25.00
Minge	Received \$90.00	(10.00
Moeni	J.L.M.	(10.00
Coffee Cup		(25.00
Mary Norman		(15.00
Cash	11-30-'28	(10.00
Hunter	Received \$140.00	(35.00

Jimmy Ryan	J. L. Martin	(	25.00
Mrs. Dalo		(	5.00
Josephine		(	15.00

Mullan, Idaho, Dec. 1, 1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, is \$445,552.25 and a levy of Fifteen (15) Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for General Revenue purposes, will produce approximately \$6,-500.00—and

WHEREAS, It requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and sewers therein, now,

THEREFORE, the undersigned residents of said Village do hereby in order to assist in the maintenance of said Village Government, VOLUNTARILY contribute to the General Fund of said Village, the sum set opposite our respective names to be used for the maintenance of the said Village Government:

NAME	DATE	AMOUNT
Nov. 30 Bolo		(\$ 35.00
Cash		(25.00
Cash	Dec. 1st, 1928	(7.50
Cash	Received \$122.50	(20.00
Chas. Fond	J. L. Martin	(35.00
Cash		(35.00

Yellowstone		(	16.00
M. F. LeGore		(	35.00
Hunter		(	35.00
Cash	Dec. 29, 1929	(	5.00
Mary Norman	Rec. \$276.00	(	10.00
Cash	J. L. Martin	(	25.00
Tony Flamender		(	10.00
Mingo		(	15.00
Mrs. Dalo		(	5.00
Coffee Cup		(	25.00
Jimmy Ryan		(	25.00
Smoke House		(	35.00
Josephine	Dec. 31, 1928	(	10.00
Mavis	Rec. \$77.50	(	10.00
Cash Fern rooms	J. L. Martin	(	10.50
Babe Kelly		(	12.50

Mullan, Idaho, Jan. 1, 1929.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village of Mullan, is \$445,552.25 and a levy of Fifteen (15) Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for General Revenue purposes, will produce approximately \$6,500.00—and

WHEREAS, It requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and sewers therein, now,

THEREFORE, the undersigned residents of said Village do hereby in order to assist in the maintenance of said Village Government, VOLUNTARILY contribute to the General Fund of said Village, the sum set opposite our respective names to be used for the maintenance of the said Village Government:

NAME	DATE	AMOUNT
Cash	Jan. 2nd	(\$ 35.00
Cash		(7.50
The Hub	Jan. 29, 1929	(35.00
Cash	Received \$223.50	(7.50
Legores Store	J. L. Martin	(35.00
Cash		(5.00
Jones		(25.00
Hunter		(35.00
Cash		(3.50
Cash		(5.00
Mr. Pazer		(5.00
Cash		(25.00
Mingo		(10.00
Coffee Cup		(12.50
Bolo	Jan. 30, 1929	(35.00
Cash	Received \$82.50	(25.00
	J. L. Martin	
	306.00	

Mullan, Idaho, Feb. 1, 1929.

TO WHOM IT MAY CONCERN:

WHEREAS, The assessed valuation of the Village

of Mullan, is \$445,552.25 and a levy of Fifteen (15) Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for General Revenue purposes, will produce approximately \$6,-500.00—and

WHEREAS, It requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and sewers therein, now,

THEREFORE, the undersigned residents of said Village do hereby in order to assist in the maintenance of said Village Government, VOLUNTARILY contribute to the General Fund of said Village, the sum set opposite our respective names to be used for the maintenance of the said Village Government:

NAME	DATE	AMOUNT
Cash	Feb. 6th	(\$15. Pd.
Helen Cash	" 10th	(7.50
Spick Cash	" 10th Received	(25.00
Mona—Cash	" 13th \$61.00	(7.50
Coffee Cup	" 13th 2-18-'28	(12.50
J.L.M.		
Mrs. Dalo	20	(5.00
Irene	22	(5.00
Fern Rooms	23	(1.50
Irene	25	(5.00
Hazel	26	(7.50
Mary Norman	27 Received \$215 (50\$15.00	
Anna	27 Feb. 28, 1929	(15.00
Mingo	27 J.L.M.	(10.00

Hunter	27	(	35.00
Cash	27	(	5.00
Coffee Shop	27	(	10.00
Legores Store	27	(	35.00
Bolo	27	(	35.00
Jimmie Ryan	27	(	25.00
Mch Rept. Coffee Cup	28	(	12.50
		Received	(
(Mona	28	\$22.50	(5.00
(Coffee House	28	Feb. 28, 1929	(5.00
		J.L.M.	
		March report	

Mullan, Idaho, March 1, 1929.

TO WHOM IT MAY CONCERN:

WHEREAS. The assessed valuation of the Village of Mullan, is \$445.552.25 and a levy of Fifteen (15) Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for General Revenue purposes, will produce approximately \$6,-500.00—and

WHEREAS. It requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and sewers therein, now.

THEREFORE, the undersigned residents of said Village do hereby in order to assist in the maintenance of said Village Government, **VOLUNTARILY** contribute to the General Fund of said Village, the sum

set opposite our respective names to be used for the maintenance of the said Village Government:

NAME	DATE	AMOUNT
	Coffee Shop Mar. 2	(\$10.00
Babe	Cash 3	(10.00
Kelly		(
	Irene 6 3-28-28	(5.00
	Cash 12 Received	(25.00
Hazel	Cash 13 \$175.00	(7.50
Gibbs	Irene 12 J.L.Mar-	(5.00
	Helen tin	(7.50
	M. F. LeGore	(35.00
	Hunter Hotel	(35.00
	Bolo	(35.00
<hr/>		
A. West	Cash	(10.00
	Smoke House	(35.00
Marie	Cash 3-28-'29	(5.00
<hr/>		
	Coffee House Received 50.00	(25.00
	Irene J. L. Martin	(5.00
	Mrs. Bazer	(5.00
	Coffee Cup 3-29-29	(15.00
	Mrs. Dalo Received \$55.00	(5.00
	J. L. Martin	

Mullan, Idaho, Apr. 1, 1928.

TO WHOM IT MAY CONCERN:

WHEREAS, The Assessed Valuation of the Vil-

lage of Mullan, County of Shoshone, State of Idaho, is \$445,552.25 and a levy 15 Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for general revenue purposes, will produce approximately, \$6,500.00, and

WHEREAS, It requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein, now

Therefore, the undersigned residents of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntary contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of the said Village Government:

NAME	DATE	AMOUNT
Cash		(\$ 25.00
Babe Kelly Cash		(15.00
Helen Cash		(7.50
Fern Rooms		(2.00
" " Babe		(3.50
Fern Rooms	Received	(2.00
Smoke House	\$208.00	(35.00
Bolo	Apr. 29, 1929	(35.00
Mrs. Paza		(5.00
Hunter	J.L.M.	(35.00
Macri		(8.00
West Cash		(10.00
Coffee Cup		(25.00
Dew Drop Inn	Received	(25.00

M. F. LeGore	\$107.50	(35.00
Jimmy Ryan, Fern Rooms Apr. 30, 1927		(2.50
Nick & John, Cash	J.L.M.	(25.00
Cash		(20.00
	208.00	
	107.50	
	<hr/>	
	315.50	
	<hr/>	

Mullan, Idaho, May 1, 1929.

TO WHOM IT MAY CONCERN:

WHEREAS, the assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, for the year 1928 is \$467,597.00 and a levy of 15 Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for General Revenue purposes and will approximately, \$6,750.00; and

WHEREAS, it requires considerably more than that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein; now

Therefore, the undersigned residence of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntarily contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of the said Village Government:

NAME	DATE	AMOUNT
Cash		(\$25.00

	Mingo		(	10.00	
	Fern Rooms		(	3.50	
	Marie		(	3.50	\$7.00
	Dollie		(	15.00	
Babe	Cash		(	25.00	
	Cash		(	5.00	
	Bolo		(	35.00	
	Legore	Received	(	35.00	
	Emily	\$297.50	(	6.00	
	Babe	5-3-29	(	2.50	
	Dew Drop Inn	J.L.M.	(	25.00	
	Jimmie Ryan		(	12.50	
	Hunter		(	35.00	
	Josephine		(	10.00	
	Mingo		(	10.00	
	Macri		(	8.00	
	Cash		(	25.00	
	Cash—Mrs. Paza		(	10.00	

Mullan, Idaho, June 1, 1929.

TO WHOM IT MAY CONCERN:

WHEREAS, the assessed valuation of the Village of Mullan, County of Shoshone, State of Idaho, for the year 1928 is \$467,597.00 and a levy of 15 Mills, which is the maximum levy allowed by law to be made by the Trustees of said Village for General Revenue purposes and will approximately, \$6,750.00; and

WHEREAS, it requires considerably more than

that sum to conduct the business of said Village and maintain the Streets, Bridges and Sewers therein; and

Therefore the undersigned residence of said Village of Mullan, in order to assist in the maintenance of said Village Government, do hereby Voluntarily contribute to the General Fund of said Village, the sum set opposite our respective names, to be used for the maintenance of the said Village Government:

NAME	DATE	AMOUNT
Cash		(\$10.00
Marie		(7.50
Fern Rooms		(13.00
Annie Tornberg		(15.00
Mary Norman	Received	(10.00
Cash	\$155.50	(10.00
Cash, Babe	J. L. Martin,	(15.00
Cash, Dolly	Treas.6-29-'29	(10.00
Cash, Josephine		(15.00
Coffee Shop		(25.00
Betty Reed		(7.50
Rose Smith		(7.50

MR. NUZUM: I object to it as incompetent, irrelevant and immaterial on behalf of the defendants I represent.

THE COURT: The objections will be overruled and the exhibits admitted.

MR. RAY: Q. Mr. Martin, approximately how

much revenue did the Village of Mullan derive from the issuance of these soft drink licenses and these payments denoted by plaintiff's Exhibit No. 2 and No. 7 per year during the period of time from 1925 to June, 1929?

THE COURT: If this witness made a computation of it and you are just intending to prove the result of his computation—

MR. RAY: That is all, your Honor.

THE COURT: The objection is overruled. If you have computed the amounts and know what they are you may state for the convenience of the jury. Of course, the exhibits themselves will speak in the event there is any dispute about it.

A. About \$7,200.00, I think. I would have to see the compilation and go over it and check before I could state definitely the amount received annually.

MR. RAY: **Q.** Mr. Martin, at my request did you prepare a compilation or a table from Plaintiff's exhibit No. 6 to 6-J both inclusive, and plaintiff's exhibit No. 2 and No. 7, of the amounts of money appearing from those exhibits as being paid into the treasury of the Village of Mullan month by month during the period of time covered by those exhibits.

A. I checked and oked such a compilation with these books.

Q. You know it to be correct?

A. I do.

Q. And did you include in that compilation any of the licenses issued by the Village of Mullan other than

the soft drink licenses, twenty-five dollars a month, and the names appearing as being paid on plaintiff's exhibits No. 2 and No. 7?

THE COURT: Do you mean by twenty-five dollars the amount of the license?

MR. RAY: Yes sir.

A. None other than the license I included except the volunteer subscriptions, they are included in this statement.

EXHIBIT NO. 8, compilation by Mr. Martin, offered by plaintiff; withdrawn.

MR. RAY: Q. Handing you Exhibit No. 10 for identification, I will ask you to state to the court what that purports to be.

A. Those are monthly reports beginning in May 2, 1927, prepared and delivered to each member of the board of trustees at each regular meeting since May 2, 1927 up to and including July 1, 1929; submitted by me as clerk of the Village of Mullan; they are a part of the records and files of the Village of Mullan.

MR. RAY: We offer in evidence plaintiff's exhibit No. 10.

MR. POTTS: On behalf of the clients I represent, I object to that as incompetent, irrelevant and immaterial.

MR. NUZUM: On behalf of those I represent, I offer the same objection.

THE COURT: Overruled. It may be admitted.

WITNESS MARTIN: A. I submitted a copy of the ordinance to each member of the council. On the report of June 6, 1927 it says, "New Form, Treasurer's Monthly Report, submitted June 6, 1927, and after that date I had issued a monthly report to the Village Trustees as per May 2, 1927. At the request of the Mayor, this additional review of subscriptions was made to the subscription list. That was circulated and entered on the monthly report, and I presume I used that word "new form" just to designate that change from the original form of monthly report.

THE COURT: You said the Mayor— did you mean Harwood?

A. Yes.

Q. The itemization was made at his request?

A. Yes; that itemization was taken from plaintiff's Exhibit No. 2.

MR. RAY: Now I will read this to the jury:

**NEW FORM, TREASURERS MONTHLY
REPORT, SUBMITTED JUNE 6, 1927**

DONATIONS TO GENERAL FUND:

Wm. Hedlund	\$ 25.00
Mrs. J.F. Ainsworth	\$25.00
Cash, (Knutson)	25.00
Mullan Pool Hall	25.00

Miners Club	25.00
Muckers Club	\$ 25.00
M. F. LeGore	35.00
Chas. Fond	35.00
Josefin Pinazza	25.00
Mary Smythe	\$25.00
Cash ?	25.00
Central Hotel	35.00
Mullan Inn	25.00
Mrs. Olka Wickman	10.00
Mrs. Amanda Back	10.00
August Flink	5.00
Mrs Ida Anderson	10.00
Mrs. Edla R. Heikle	20.00
Mrs. Pearl Johnson	15.00
Yellowstone Cigar S	25.00
Arthur Rumble	1.50
A. Anderson	2.00
Jack Swanson	15.00
Stevens Hotel	10.00
Lee Bell	10.00

Total for May, '27 \$ 513.50

ON ANNUAL LICENSES:

Mullan Garage. (R. R. Station)	6.00
Geo. Solomon	5.00
Continental Oil Co.	12.00
John Assaith	5.00

Total Annual and Daily License 28.00

Donation Column, Ford	513.50
<hr/>	
Second Total, Two Incomes	\$ 541.50
ALL OTHER RECEIPTS:	
County Tax	\$ 524.60
County License	16.00
City Taxes	12.28
City License	382.50
Fines & Forfeitures	277.25
Building Permits	4.00
Plumming Permits	1.00
Interest,	.29
Dog tax	59.00
Rents	6.00
<hr/>	
Total Receipts for May, 1927	\$ 1824.42

EXHIBIT 10 was monthly reports of the village treasurer to the village council made monthly and the foregoing is a copy of one of such reports, the others being similiar thereto.

MR. RAY: Have you fixed in your mind the 20th of November, 1928?

A. Yes sir. On the 20th of November, 1928 a special meeting was called by request of Mayor Harwood to consider the ratification of an act of the board out of session in reference to the discharge of Mr. Needham. Harwood, Wheatley, Huston and Ristau were present. A motion was made by Huston that the action of the board at the former meeting be ratified as to the dis-

charge of Mr. Needham as Chief of police. Seconded by Ristau. Mr. Wheatley withdrew from the meeting before the motion was put for action. Wheatley stated that he believe Mr. Needham should have a hearing before such action was taken. The motion was carried by the three present. I do not know what former meeting was referred to. Something was said as to a discussion that the members had had at a meeting on November 8th, following a regular session at which I was not present, and I understood this meeting was for the purpose of ratifying the informal action taken at that time. I was directed to write a letter notifying Mr. Needham that he had been discharged. Exhibit No. 11 is the letter I wrote in pursuance to the instruction.

MR. RAY: I offer in evidence plaintiff's Exhibit No. 11.

MR. NUZUM: Object on behalf of Weniger and Bloom on the ground that it is immaterial.

THE COURT: Overruled.

MR. RAY: I will read this exhibit: (Reading)

"November 21st, 1928.

Mr. M. D. Needham,

Mullan, Idaho.

Dear Sir:

I am directed by the Mayor, Mr. A. J. Harwood, to inform you that at a called meeting held the evening of November 20th, the action of the Board on November

8th asking your resignation effective November 10th was by resolution confirmed.

Yours truly,

J. L. Martin,

Village Clerk.”

MR. RAY: Q. When, if you know, was Mr. Welch appointed Chief of Police?

A. The 9th of November, 1928 and he is still Chief of Police.

Q. What was the practice followed by Mr. Florin as Chief of Police with respect to the issuance to these licenses and the subscriptions indicated by plaintiff's Exhibit No. 7?

MR. POTTS: The same objection.

MR. BANDELIN: The same objection, and further, that is not the best evidence.

THE COURT: Overruled.

A. There was no difference in the practice. There was a difference in the amount of money that was turned into me as Treasurer of the city.

Q. What can you say with respect to the time that Welch has been in office prior to July 1st of this year?

A. The practice was the same.

Q. What action was taken by the members of the village council of Mullan about the 1st of July of this year with respect to the issuance of \$25.00 soft drink licenses or the subscriptions indicated by Exhibits 2 and 7?

MR. POTTS: I object to that as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

A. The practice was discontinued July 1st, 1929. There was an informal meeting after a regular meeting on July 2, when the matter was discussed. All the trustees were present except possibly Foss.

MR. RAY: I show you page 391 of plaintiff's Exhibit No. 5, and will ask you to state what the proceedings at the beginning about the middle of page 393, what they indicate?

A. Indicates a regular Trustees' meeting, July 1st, 1929.

MR. RAY: I offer in evidence page 391 of plaintiff's Exhibit No. 5 for identification, same being designated 5-I, showing the members of the village council present at that meeting.

MR. WERNETTE: I object to that as incompetent, irrelevant and immaterial.

MR. NUZUM: The same objection.

THE COURT: Overruled.

MR. RAY: I shall read this:

“The village trustees met in regular session in the village office July 1st, 1929 at 7:00 p. m. Roll call, present, A. J. Harwood, Chairman, Charles Ristau, George S. Price, John Wheatley. Absent, Henry Foss. J. L. Martin, Clerk, and F. O. Welch, Chief of Police were also present.”

Q. Before proceeding, does this refresh your memory to the extent that you can tell who was present at this meeting?

A. It has. Harwood, Wheatley, Ristau, and

THE COURT: Huston?

MR. RAY: Huston or Price?

A. Huston was present at that meeting. And Mr. Welch was also. I stated—

MR. NUZUM: I object to anything that he stated as incompetent, irrelevant and immaterial.

THE COURT: Overruled. Go ahead.

A. I stated to the members of the board of trustees that I had seen Mr. Hull a few days prior to that, and in consultation with him —

MR. POTTS: Now I object to that.

THE COURT: Overruled.

MR. WERNETTE: I think it is hearsay and not binding upon the defendants.

THE COURT: Overruled. He is relating what he told to these members.

A. (Continuing) In conversation or consultation with Mr. Hull he directed me that it would be proper for the board of trustees to be informed that the best procedure for them to adopt would be to discontinue the collection of soft drinks licenses and the circulation of the volunteer subscription list for raising funds for the expense of the village.

Q. Did you tell them any reason that Hull had given you for that, if he did say anything?

MR. NUZUM: The same objection.

THE COURT: Confine yourself now to what you reported to the members of the board.

A. I told them that Mr. Hull stated that the Government Prohibition Officers were making an investigation of the situation existing in the district, what was being done in that line, and that his advice was that we discontinue that practice.

Q. Thereupon what was done by the members?

MR. NUZUM: The same objection.

THE COURT: Overruled.

A. They directed me to require the Chief of Police to discontinue that practice.

Q. Did you do so?

A. I did.

Q. Thereafter have you issued any soft drink licenses—\$25.00 a month license?

MR. NUZUM: Object to that as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

MR. NUZUM: Exception.

A. I have not issued any soft drink licenses since then. No money has been delivered to me on subscriptions like Exhibit No. 7 since. I have not delivered any

blanks to the Chief of Police since. Hull was the city attorney until February 1st of this year. He acted as official counsel for the village at times since. The names of the so-called soft drink licenses were first brought into the office by applications made by the various parties. That was before Needham's administration. New names appeared from time to time as they would make application for licenses.

MR. RAY: At this time we offer to continue reading from the minutes of the village of Mullan, plaintiff's Exhibit 5 for identification, the names of the trustees present at each regular session after December, 1928, up to and including November, 1929.

THE COURT: Showing the names of the members of the board that were present at the several meetings.

MR. RAY: I beg your pardon, sir.

THE COURT: Showing the names of the members of the board that were present at the several meetings.

MR. RAY: And the officers of the village?

THE COURT: Yes.

MR. POTTS: We object to that as immaterial and incompetent.

THE COURT: The objection is overruled.

MR. NUZUM: We all have that objection.

THE COURT: I understand there is no objection to the manner of it.

MR. NUZUM: Oh, no, not to the method, your Honor.

MR. RAY: I do not understand that this is to be marked, your Honor, but just read.

THE COURT: No, just the reading of each meeting.

MR. GRIFFIN: (Reading) "Regular session of July 7, 1929, Present: A. J. Harwood, present, Charles Ristau, George Huston, John Wheatley, Henry Foss, H. J. Hull, Village Counsel, J. L. Martin, Clerk, and F. O. Welch, Chief of Police.

"Regular session February 4, 1928. Present: A. J. Harwood, the chairman; Charles Ristau, George Huston. Absent: John Wheatley and Henry Foss. H. J. Hull, Village Counsel, J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session March 4, 1929. Present: A. J. Harwood, chairman; George Huston, Charles Ristau and John Wheatley. Absent: Henry Foss. J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session April 1, 1929. Present: A. J. Harwood, Charles Ristau, George Huston, John Wheatley. Absent: Henry Foss, J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session May 6, 1929. Present: A. J. Har-

wood, chairman; Charles Ristau, John Wheatley, George Huston, Henry Foss. Absent: None. J. L. Martin, Clerk and F. O. Welch, Chief of Police were also present.

It is headed, "incoming board May 6, 1929. Present: A. J. Harwood, Henry Foss, John Wheatley, Charles Huston and George S. Price, J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session June 3, 1929. Present: A. J. Harwood, Chairman; Charles Ristau, John Wheatley, George S. Price. Absent: Henry Foss, J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session July 1, 1929. Present: A. J. Harwood, Chairman; Charles Ristau, George S. Price, John Wheatley. Absent: Henry Foss, J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session August 5, 1929. Present: A. J. Harwood, Chairman; Charles Ristau, John Wheatley, Absent: George S. Price, Henry Foss, J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session September 3, 1929. Present: A. J. Harwood, Chairman; Henry Foss, John Wheatley, George S. Price. Absent: Charles Ristau, J. L. Martin, Clerk and F. O. Welch, Chief of Police, were also present.

"Regular session October 7, 1929. Present: A. J.

Harwood, Chairman; George S. Price, Charles Ristau, John Wheatley. Absent: Henry Foss. J. L. Martin, Clerk and F. O. Welch, Chief of Police were also present.

“Regular session November 4, 1929. Present: A. J. Harwood, Chairman; John Wheatly, Charles Ristau, Henry Foss. Absent: George S. Price. J. L. Martin, Clerk and F. O. Welch, Chief of Police were also present.”

CROSS EXAMINATION

BY MR. POTTS: Witness Martin:

The sources of income from the Village of Mullan were the regular tax levy, fines and forfeitures, soft drink license, volunteer subscriptions, dog license, building permits and plumbing permits, et cetera. There were three general sources of income, the general property tax, the license or permit fines and volunteer subscriptions or donations. All of these methods have been in vogue in Mullan for many years. The money from licenses was all deposited in the bank to the credit of the Village of Mullan. It went for the payment of the general running expenses of the city by vouchers, or warrants, the city warrants. The money received by me from the voluntary subscriptions represented by plaintiff's Exhibit No. 2 was used in payment of the general running expenses of the city. The money represented by plaintiff's Exhibit No. 7 was deposited and used for

the same purpose. No part of it was paid over directly or indirectly to any member of the village council. None of these defendants or their predecessors received any salary for the performance of their official duties. When Foss, Wheatley and Ristau were either elected or appointed the same sources of raising revenue had been in existence in Mullan for some time. I am familiar with Ordinance No. 105, the license ordinance. The matter of enacting that ordinance was first presented November 5, 1923. The meeting of the council shows that was the first step in the preparation of such an ordinance which afterwards was Ordinance No. 105.

Exhibit No. 12, defendant's exhibit No. 12 was offered and received in evidence, page 244 of the minute book.

MR. POTTS: This is Page 244 of the minute book, identified as defendant's exhibit No. 12: "Proceedings of the village trustees in regular session November 5, 1923. John Taylor of the Victor Hotel, appeared before the board and presented a plan for increasing the revenue of the village by licensing all business houses. The proposition was given attention and duly discussed. It was postponed for further consideration at a later date."

Witness: This matter was considered again prior to the meeting of January 18, 1924.

Defendant's Exhibit No. 13 offered in evidence is the proceedings of the village trustees in regular session January 7, 1924. That was the next step that led up to the enactment of Ordinance No. 105.

MR. POTTS: We offer in evidence defendant's Exhibit No. 13.

MR. RAY: No objection.

THE COURT: It may be admitted.

MR. POTTS: (Reading): "Proceedings of the village trustees in regular session, January 7, 1924.

"The Village trustees met in regular session in the village offices, at 7 p.m. Roll call: Present, D. F. Clark; Chairman; Arthur J. Harwood, C. B. Johnson, Elmer Olson. Absent: C. R. McCord; J. E. Gyde, Village Counsel, Larry Dooling, Chief of Police, and Joseph L. Martin, Clerk were also present. The minutes of the previous meeting were read. Moved and seconded, that the minutes be approved as read. Carried. The following bills were read. (See filed list); Moved and seconded, that the bills be allowed as read and O.K'd by the finance committee, and warrants drawn upon the treasurer in payment of the same. Carried. The communications were read and placed upon file.

"The following houses made application for license to sell soft drinks and conduct pool and billiard parlors; Bilberg Hotel; Stockholm Pool Hall; Bolo Soft Drink Parlor; Conovich Pool Hall; Mullan Pool Hall; Central Hotel; International Hall; Victor Hotel; Harwood's Drug Store; Miners Home. Following the reading of the above applications the question of having a new ordinance drawn covering all lines of business was discussed. Moved and seconded that

the village counsel be requested to draw a new ordinance whereby all lines of business may be required to contribute towards the support of the village government, to take the place of the present one, No. 103. Carried. Moved and seconded, that a committee of three be appointed by the chair to schedule the tax rate proportionately among the owners of the various business in the village. Carried. The chair appointed Arthur J. Harwood, C. B. Johnson and Elmer Olson, members of the village trustees, and John Taylor and J. B. Wilcox, citizen members.

“Before adjournment it was mutually agreed that when the board adjourns, it will be an adjourned meeting until Tuesday evening, January 15, 1924. Moved and seconded that we adjourn to January 15th. Carried.

Witness: The matter was taken up again January 18, 1924. Page 245, the minutes of the meeting of January 18, 1924 is the proceedings of the village trustees at an adjourned regular session, adjourned from January 15, 1924, purporting to contain proceedings with reference to enactment of Ordinance No. 105.

MR. POTTS: We offer in evidence defendant's Exhibit No. 14.

MR. RAY: No objection.

THE COURT: Let it be admitted.

MR. POTTS: (Reading:) “Mullan, Idaho, January 18, 1924. The trustees met in adjourned session in the city office at 7 p.m., January 18, 1924. Roll call:

Present, D. F. Clark, Chairman, Elmer Olson; C. B. Johnson; D. R. McCord; and Arthur J. Harwood. Larry Dooling, Chief of Police; and Joseph L. Martin, Clerk, were also present. J. B. Wilcox and John Taylor, citizen members of the committee to schedule the license fees for the various branches of business for the new ordinance, were also in attendance.

“Ordinance No. 105 was read in its entirety. Reread section at a time, and the committee on fees for the licenses to be granted to all lines of business and the required notations were entered, and the ordinance referred to the village council for redraft. The clerk was instructed to mail the corrected ordinance to Mr. Gyde, the village counsel, at once with the request that he redraft it as soon as possible and mail it back for inspection before Wednesday night, to which date it had been agreed to adjourn when the trustees were ready for adjournment. Moved and seconded that we adjourn to Wednesday night at 7 p.m., the 23rd day of January, 1924. Carried. Joseph L. Martin, Clerk. D. F. Clark, Chairman.”

Q. Was this citizen's committee present at this meeting of January 18, 1924?

A. Yes sir. They discussed with members of the trustees the plan for collecting revenues by license. They made a recommendation as to the amount of licenses to be fixed. It included a recommendation of \$25.00 per month for soft drink places. I do not remember whether they were there on January 7, this committee, at the meeting of the council. Taylor might

have been present at the council meeting January 7, but I don't think Wilcox was. Taylor was there at the meeting in November, I think. Wilcox is cashier of the First National Bank of Mullan and was, at that time. From time to time other citizens of Mullan were present in connection with this matter but not at these meetings when the committee met. The matter was next taken up at the meeting of January 23, 1924. The minutes of that meeting are already in evidence as plaintiff's Exhibit 5-B and the ordinance was adopted at that time. On January 28, 1924, being plaintiff's Exhibit 5-B, the council read Mr. Gyde's communication, but the reference there in that exhibit is not to Ordinance No. 105 but to 106, being an ordinance for assessing for license, etc. There is no further reference to ordinance 105 in the minutes of the meeting of the board of trustees of the village of Mullan after the meeting of January 28, 1924. The license ordinance offered in evidence here as plaintiff's Exhibit 4-A is ordinance No. 105. I prepared the form of the licenses issued by the village subsequent to 1923 and up to 1926. That is, I think it was a license that was probably in stock from some other city and I did the clerical work in issuing the licenses. These were issued on application filed by different classes of business requiring license. I think in 1923 or 1924 the chief of police began delivering the licenses and during some periods the licensee was required to come to my office and get their license. Do not know whether I changed it or the council. I secured the services of the chief of police to deliver the licenses and collect the money. Year-

ly licenses were issued the first of the year. Monthly licenses the first of each month given to the chief of police to collect the money and return it. As to plaintiff's Exhibit No. 7, I prepared the headings. The heading was the same up until about 1926. The heading is as follows:

MR. POTTS: (Reading):

Mullan, Idaho, May....., 1925.

TO WHOM IT MAY CONCERN: Realizing the great need the village of Mullan has for street and bridge improvements, and the inadequate provision made by taxation to meet this needed improvement and improvement in the village, we, the undersigned citizens hereby subscribe and pay to the village of Mullan for said purpose the amount set opposite our respective names upon our own initiative, for a street and bridge fund."

A. The city council suggested I have this heading and I worded it myself and it was true, and I believed it was true, and from information I had as clerk of the Village of Mullan, I knew it was true. Subscriptions were solicited for other purposes among the people of Mullan from time to time.

MR. POTTS: Plaintiff's Exhibit No. 7, under date of September 3, 1926, reads: "Mullan, Idaho, September 3, 1926: TO THE VILLAGE TRUSTEES OF MULLAN, IDAHO: We, the undersigned business houses and citizens interested in the protection of the

village from fire and burglary, and for the peace and orderly government of the community, hereby subscribe the amount set opposite our respective names for the special monthly fund to employ a night policeman. Said fund to be strictly used for these purposes.”

Q. Did you draw that heading?

A. I drew the heading, gave it to the Chief of Police. We had no funds at that time to pay the night police. This was circulated in good faith to provide funds for the purpose named and a night policeman was employed.

Q. The heading on subscription list in plaintiff's Exhibit No. 2 reads as follows: “Mullan, Idaho,.....:

TO WHOM IT MAY CONCERN:

WHEREAS. the assessed valuation of the village of Mullan, county of Shoshone, Idaho, is \$400,123.00, and a levy of fifteen mills, which is the maximum levy permitted by law to be made by the Trustees of said village for general revenue purposes, will produce approximately \$6,000.00; and,

WHEREAS. it requires considerably more than that sum to conduct said Village government and maintain the streets, bridges and sewers therein;

THEREFORE, the undersigned residents of the said village of Mullan, in order to assist in the maintenance of said village government hereby voluntarily contribute to the general fund of said village, the sum set opposite their respective names:”

A. I did not prepare the original. Mr. Hull prepared it. He is the village attorney. I provided the figures. I knew the statements were true. I had the records of the village showing the amount of money that was received in the village treasury each year and from all sources. The record will show how the money was expended. I compiled the total of the receipts and expenditures of the village from 1923 on. These records are at Mullan. They are my report to the Village Trustees as Village Treasurer. The money was paid out by city warrants and returned and redeemed by checks.

CROSS EXAMINATION

BY MR. WALKER:

Q. Do you know Bertha Strom?

A. I know Bertha Strom. She always paid a license at my office. Babe Kelly paid a license at my office two or three times, not regularly.

Q. Judge Martin, was there any conversation between you and Bertha Strom, or you and Babe Kelly, in regard to their possession, or sale, or manufacture of intoxicating liquor in their places of business?

A. No, sir, not that I remember of.

Q. Was there anything expressed or implied—anything expressed, when they came to pay their license in regard to protection against the United States Government or the village officers or other officers, in re-

gard to violations of the National Prohibition Act?

A. No sir.

RE-DIRECT EXAMINATION

BY MR. RAY:

Q. What kind of a license did you issue to Bertha Strom?

A. A license to conduct an apartment house in the Fern Apartments. The charge was \$25.00.

Q. With respect to the minutes of the Board of February 4th, 1924, in making reference to Ordinance No. 106, being the ordinance providing for assessment for licensing of every line of business conducted within the city limits, what, if anything, have you to say as to the No. 106 referring to the occupational ordinance?

MR. NUZUM: That was introduced in the record, ordinance No. 106. It was voted upon and passed upon. It is the record of a public official. I object to it on that ground in the first place, and in the second place I object to the question as incompetent.

THE COURT: Will you read the question, Mr. Hamilton?

(Question read by reporter.)

THE COURT: Overruled. The number appearing there was by error, either upon the part of Mr. Guide, or myself. I wouldn't undertake to fix the responsibility for numbering it 106 instead of 105 as it

should be numbered.

Q. No. 106 refers to ordinance No. 105.

MR. NUZUM: That would be a conclusion of the witness.

THE COURT: Overruled.

A. Yes.

Subscriptions, plaintiff's Exhibits No. 2 and 7, were not taken from any persons except in two or three instances, than that places of prostitution, liquor dispensing or gambling, and the payments were made except in two or three instances by persons engaged in said business. I do not know the size of the Fern Apartments. I do not know how many rooms are in the Hunter Hotel. The license to the Hunter Hotel, Exhibit 6-F, dated January 3, 1929, to the Hunter Hotel for the business of the hotel, lodging, tobacco, cigars, for the term of one year, \$18.00 and issued under the annual ordinance license for conducting rooming and boarding house. License to Bertha Strom, business Fern Apartments, term one month, April 2, 1928 was for one month, to May 1st, 1928, \$12.50; and No. 4128 for \$12.50, both a part of Exhibit 6-F, was issued under ordinance for license for soft drinks. License of Babe Kelly, being plaintiff's Exhibit No. 6-A, September 8, 1926, Fern Hotel Apartments, for term of one month to October 3, 1926, for \$25.00 was issued under the soft drink license. I do not remember the license for hotel and lodging places. The license fees vary, but a resolution afterwards was passed by which I was guided to some extent in issuing licenses.

RE-CROSS EXAMINATION

BY MR. POTTS:

In answering that every name on the list with two or three exceptions on Exhibit No. 7 were for prostitution, intoxicating liquors or gambling. I find the name of the Mullan Garage under date of September 3. It does not come under any one of those three headings. The Home Toggery is listed there, but does not come under any of the three headings. The First National Bank of Mullan, Idaho was not under any of those three headings; Taylor Motor Company, Storage Garage, Leona Garage, Independent Market were none of them under those three headings, and in the list under October, on Exhibit No. 7, the Wallace Lumber Company, Leona Garage, Home Toggery, First National Bank of Mullan and the Meat Market are all there, and are not included in the category. On the November list, in Exhibit No. 7, the Taylor Motor Company, Mullan Garage, First National Bank, Morrow Retail Store, Independent Market, none of these were under those three headings. That is true of the Home Toggery, Wallace Lumber Company, and that is true of the December list of the Home Toggery, Taylor Motor Company, First National Bank, Wallace Lumber Company, Morrow Retail Store. They do not come under that list and are all on said subscription.

CROSS EXAMINATION**BY MR. WALKER:**

The stub of the license issued to Bertha Strom, February 1st, shows the business, apartments, and the Miners Club, January 1, 1929, the business is "cigars, tobacco and confectionery."

I issued this license to Bertha Strom for soft drinks when opposite the business blank is written 'apartments,' because it was issued under that section of Ordinance 105 and for the business that I was given to understand she was conducting; it was issued for \$25.00.

RE-DIRECT**BY MR. RAY:**

Bertha Strom and Babe Kelly paid the money and took the license in the amounts indicated.

JAMES E. GYDE, witness on behalf of plaintiff, testified:

DIRECT EXAMINATION**BY MR. RAY:**

My name is James E. Gyde, my residence is Wallace, Idaho. I am a lawyer, practicing the profession at the Idaho Bar, of which I have been a member over thirty-five years. I was counsel for the Village of Mullan, Shoshone County, Idaho, in years 1923 and 1924. I advised the Village Council and members thereof with re-

spect to Ordinance No. 105, and occupational tax ordinance passed February 4, 1924. I drew the ordinance. I think probably I was requested to draw it at the first meeting in January in 1924. I drew a rough outline of the ordinance, provided for different occupations and businesses, leaving the amount of the license blank. I returned that to Judge Martin, requesting that he submit it to the trustees for their consideration and to add such businesses, if I had overlooked any, and put in the amounts of license for the various occupations. In course of time it was returned with some interlineations, riders attached and the like, and I redrew and redrafted the ordinance including the amounts furnished and that draft was adopted. I think, on the 23rd of January as a revenue ordinance under the statute. Later some question came up about complying with a Supreme Court decision and I redrafted the ordinance as a regulatory measure to meet the Supreme Court's idea upon the subject, expressed in the case of *State v. Nelson*, 36 Idaho, 713. The thing that called my attention to the classification of business was the soft drink parlor license.

“I was present at the council meeting at which Ordinance 105 was adopted. I am not sure whether it was then or January 23, 1924, that I discussed soft drink licenses with the trustees. I said to them that it seemed that this \$25.00 you charge for soft drink parlors is too large. They cannot afford to pay it and you must not attempt to license the sale of intoxicating liquor. I told them, in substance, that there was a very drastic law in

Idaho against that sort of thing, imposing a very serious penalty for doing that sort of thing, and they must not do it. I told them of Section 2643, Compiled Statutes of Idaho which provides, among other things, that the attempting to license the sale of intoxicating liquors is a felony punishable by imprisonment for from one to five years and disqualifying them, if found guilty, from forever holding any office in the county or state, and read them the provisions of the statute. I continued to act as village counsel until the first Monday of May, 1925.

At the council meeting at which I made the above statements, there was present G. Forest Clark, Chairman, and others. I cannot say positively, that every member of the Board was present. At that time the members were: G. Forest Clark, D. R. McCord, Elmer Olson, Charles Johnson and Mr. Harwood. Clark, McCord and Johnson are now dead and Olson is in the hospital. In addition, the clerk, Mr. Martin, was present. I do not recall that J. B. Wilcox, the banker, or John Taylor, garage man, were present, nor whether any other citizens were there. This meeting was around January 23 or February 4. I was usually present at all meetings. When the ordinance was adopted, a copy was given me with the request to publish it in the Wallace Miner. I think I requested a special meeting of the Board to reconsider passage of the Ordinance. The original ordinance 105, adopted January 18, 1924, included the amount of license fees. I redrafted the ordinance after the Supreme Court decision of *State v. Nelson*.

I saw Ordinance 105 after it was subsequently adopted February 4, 1924.

When I suggested that the trustees couldn't legally license the selling of intoxicating liquor, Clark stated that there would be nothing of that kind done. That this licensing would have the effect of reducing the number of soft drink parlors to two and they can pay the license."

H. J. HULL, witness on behalf of plaintiff, testified:

DIRECT EXAMINATION

BY MR. RAY:

My name is H. J. Hull; I live in Wallace, Idaho, Shoshone County. I am an attorney, and have been such for seventeen years. I was counsel for the Village of Mullan from May, 1925 to December, 1928. While I was such counsel the practice of issuing soft drink licenses by the Village of Mullan was brought to my attention and I discussed the matter with members of the Village Council. I first took it up with the entire members. Charles Johnson was one of them. Later I discussed it with the other members of the council, Mr. Wheatley, Mr. Foss and Mr. Harwood, but I am not positive about Harwood. That was in the summer and fall of 1927 at my home in Wallace. I was employed as attorney by the Village Trustees of Mullan and these three trustees had come to consult with me with reference to the business of the village, and the communica-

tion made by them to me and the advice given by me thereon related to the business of the village trustees.

MR. WERNETTE: We object on behalf of my defendants on the ground that the evidence sought to be elicited is hearsay, incompetent, irrelevant and immaterial.

MR. BANDELIN: And the same objection that Mr. Wernette made as to the clients that I represent.

THE COURT: And the objections will be overruled.

A. I told them that if collections were being made from anyone engaged in an unlawful business, it was an unlawful practice and should be stopped. The conversation was about as follows: They stated or expressed the thought and belief that there was nothing wrongful about the practice inasmuch as they were not personally profiting by it, and further that they did not think or did not consider that the Federal Prohibition enforcement of officers would be intended to disturb the situation up there, and further, that they were merely expressing the wish or will of the community in this practice.

THE COURT: Gentlemen of the Jury, at this point I wish to charge you concerning the place in this case that the testimony of the witness just upon the stand, Mr. H. J. Hull, occupies, to the end that you may not be confused and that it may be confined to its proper sphere. The only defendants now upon trial

whom the witness named as being present at the meeting at his home, concerning which he testified, were the defendants, Wheatley and Foss. He said that he was not sure whether Mr. Harwood was present. I, therefore, instruct you as a matter of law that this testimony of this witness is to be considered by you solely in connection with the guilt or innocence of the defendants Wheatley and Foss and must not be taken into account by you in connection with the case of any of the other defendants now on trial. I am expressing no opinion concerning the weight of the testimony or its credibility, but in your deliberations you may give such credence to it and such effect to it as in your judgment it is entitled to have, but in doing that you must confine it to the case of the defendants Wheatley and Foss and not extend it to the case of any other person now on trial.

WILLIAM BARRON, witness called on behalf of plaintiff, testified:

DIRECT EXAMINATION

BY MR. LANGROISE:

My name is William Barron. I reside at the present time at Butte, Montana; I am a miner; that has been my occupation for the last three years; been engaged in mining in Butte for the last year. I have been engaged in mining in Northport, Washington, Kellogg, Idaho and I have been in Mullan, Idaho. I went to Mullan about the middle of March, 1928; re-

mained in Mullan about six months, working in the Morning Mine and in the You Like Lease. When I was in Mullan I gave information to Johnson and Webb, Prohibition Agents, Federal with respect to the liquor traffic in Mullan. I know Mona McDonald, one of the defendants. She was in Mullan when I was there. In the middle of July, 1928 I purchased liquor in her place on two occasions. I know Babe Kelly. She was in Mullan when I knew her and had a place in Wallace and one in Mullan—the Coffee Shop in Mullan. I bought liquor on one occasion from her. I know Bertha Strom. She was in the Fern rooms in Mullan. I purchased some beer from her. After giving information to Webb and Johnson I signed an affidavit. I went to Mullan to make searches with Webb and Johnson. We searched the Coffee Shop and Mona McDonald's. We found some stuff, but I cannot say what. By "stuff" I mean some beer and some whisky; beer at Mona McDonald's. The search was at night on the 6th of August, 1928. On the 7th of August I was in Wallace and saw R. E. Weniger, the defendant. He arrested me. I was walking down the street and saw him and another lady and Bloom talking together; the lady we used to call Barney. She was from Mullan. She was over the Marble Front keeping a sporting house. I saw her, Weniger and Bloom together. They were talking. I was walking by on the street. This lady came over to me and tried to call me dirty names and everything, and she reached her hand for me and I just took her hand to knock her hand down so she would not hit

me, and she lay down and so Weniger and Bloom came over and arrested me and threwed me in jail. After I was arrested and thrown in jail I saw Johnson and Webb come into the jail about a half hour later. I heard a conversation between Weniger and Johnson and Webb. Chief Needham was present, and when Johnson and Webb came in Weniger says, "I got your Federal stool pigeon here." Weniger said that. He said, "What do you mean by it?" Then after they called me out they wanted to know if I was a Federal man or if I was not.

Q. Who did?

A. Weniger, and they had quite a few heated words between them. He says, "I wish you would stay out of my county," he said, "I can look after my county better without your help."

Q. Who said that, and to whom was it said?

A. Weniger.

Q. To whom did he say it?

A. Well, Webb and Johnson was there.

Q. Did you keep any records of your buys or any purchases of whiskey that you made?

A. I did. I kept it in a little book, and had that book on me at the time I was arrested by Mr. Weniger, and when he searched me and found the book and looked it over he bawled me out, he says, "You should not do anything like that, go ahead and stool on these people." I said, "I did not stool. I warned them before. I told them I was going to do it." Weniger said to me, "I will deport you into Canada if you come up here from Can-

ada and try to get smart. I will deport you to Canada.” This conversation was in Wallace, Shoshone County, Idaho. Needham was there but I do not think he was there at the time that he told me that he was going to deport me, just me and Weniger was there at the time he was telling me he was going to deport me and was bawling me out after he looked over the book.

CROSS EXAMINATION

BY MR. NUZUM:

I did not push the woman over. I did not reach my hand to push the woman over. She laid down and I never pushed her. I was found guilty of assault and sentenced to pay a \$100.00 fine and serve thirty days in jail and I served all of the time. The woman called me dirty names. She called me a son-of-a-bitch and stool pigeon and bastard and everything a fellow could think of. It was just across the street from the court house at Wallace. I do not know Charles Cartwright. I do not think he was there. I am pretty sure it was Weniger and Bloom. Am sure Bloom was there. They both took me to jail. Bloom came over with Weniger to me; both of them came over there and arrested me and took me to jail. The woman's face did not show any marks or bruises. I did not touch her. I did not say anything back to her. I am positive I did not strike her and knock her down. I had a trial and I plead guilty to assault. I think it was assault. I plead guilty to whatever the charge

was. If my testimony is true I did not assault her and I did not strike her and I had done nothing at all, and still I plead guilty because I had to, because the boys inside was beating me up, and Weniger wanted me to make a statement that I gave to the county attorney there, and he told me, he says, "If you will plead guilty, we will let you off on a \$10.00 fine." Weniger and I were alone when he made this statement and I plead guilty on the statement I would only get \$10.00.

Q. Now, when you got more than ten dollars did you say anything to the court that "this man has got me to plead guilty and told me that I would only get ten dollars?"

A. No, I did not say nothing.

It was in Judge Shearer's court that I plead guilty, I had an attorney by the name of Fitzgerald, and he appeared for me in court, and Weniger would not let him come in to see me and talk to me, but he appeared for me. He advised me to plead not guilty, but I did not take his advice. He was in court when I was fined. The book I had when arrested containing the record of the buys Weniger gave it back to me and when I was going out I tore the pages out and threw it away. It was no good to me. I was not going to be a witness for the government. I took the memorandum down and put it in that book; that was my account; I got sore at the bunch in Mullan. I was sore at Mona McDonald and Babe Kelly.

Q. And you went in there and you said, "Now,

Mona, I am going to turn you in to the Federals and tell them I bought some booze?"

A. I did not tell Mona, I told Needham, the Chief of Police.

Q. I thought you said you told this fellow that you bought from that you were going to tell on them?

A. I did not tell everybody. I was not going to go and talk to everybody.

Q. Which one of those that you bought booze from did you tell before you bought it that you were going to squeal on them?

A. Well, I told Chief Needham, that is the only one I told.

Q. Then you did not tell Mona and you did not tell Babe?

A. No.

I went in there for the purpose of getting these girls to sell me booze. I did not get any money from anybody. The first thing I heard Weniger say was, "I got your Federal stool pigeon over here, gentlemen, is he a Federal man or what is he?" He said, "I wish you would keep out of my county, I can look after my county better without your help." That is all I remember. I was brought here as a witness and have not gone over my testimony with Johnson and Webb. They did not ask me what I heard Weniger say. I did not tell them what I heard Mr. Weniger say. Never told anybody until night before last I told the district attorney after I got here, but at the time I was subpoenaed at Butte to come

here I had never told a soul what I had heard Weniger say.

At the time I was in jail, Weniger told me that if I don't plead guilty and don't give this testimony, he will shove me in Hell, put me over the road to the State prison, but if I plead guilty he will let me out easy with about \$10.00.

I did not tell Weniger that Fitzgerald told me if I would go there and get these bootleggers in Mullan I could make \$1000.00. That is the time we talked about this money that Weniger told me if I plead guilty he will let me out easy with ten dollars.

Q. Then as I understand you, you did not tell Weniger that Fitzgerald had told you that if you would go there and get these bootleggers in Mullan you could make a thousand dollars?

A. Yes, sir, but this was not Fitzgerald's case, this was my own case. I told Weniger that Fitzgerald told me that. He has got the statement of it, too, and that is after I got beaten up inside the jail. I told him that, but it is not true. I had to tell something to get out of my case. Sure I made up the story myself. He made it up and Weniger said, if I would sign that statement he would let me in easy. The county attorney came down and Weniger and a couple of other guys, I forget now what their names are. Weniger told me to tell the attorney and I did not say much, so they took me up to the office and he wrote it up and I just signed it. The county attorney wrote it up without my saying anything that was in it.

Q. You did not tell him a thing from which he could make up a statement?

A. Well, he was saying that that would be all right, "it is up to you." I was sick and I was—?— beat up that time, too." The statement was not signed in the presence of Weniger. They took me up to the attorney's office and he doped it up and then I signed it. The prosecutor and I were alone. I did not tell the prosecuting attorney anything to put in the statement. He got it up himself. I signed it but did not read it. I did not read it all. I don't know what is all in the statement. I know about that thousand dollars; about the thousand dollars about Fitzgerald. He was supposed to give me a thousand dollars about the bootleggers that you stated there, but it was not true.

Q. I want you to tell me what was in the statement that you signed.

A. "I don't know what is all in that statement." As much as I know is only about that thousand dollars that you told a little while ago, that if I got the bootleggers in Mullan, that he would give me a thousand dollars, and that was not true. The prosecuting attorney was Mr. Horning.

MR. NUZUM: (Mr. Horning will please stand up.) Q. Is that the man?

A. Yes sir. That is the man I referred to as the prosecuting attorney with reference to this statement.

CROSS EXAMINATION

BY MR. BANDELIN:

I know a Mrs. Ainsworth. I had some conversation with her. She was running a sporting house. I do not think she told me she wanted me to get Babe Kelly and Mona McDonald. I know it is not a fact.

Q. Well, you had some talk with her, didn't you, in reference to these two women?

A. No, I did not.

Q. And you never mentioned Babe Kelly's name to her?

A. We talked about Babe Kelly.

Q. Didn't she want you to get Babe Kelly?

A. No, nobody told me to get any of them.

The woman I had trouble with was named Barney. I was sore at her because I got a disease from her. I got a drink from Babe Kelly in Mullan at her house in Mullan. I got a drink from Burdella and Babe, too. I cannot tell when I got it, but it was about eight days before they searched the place. Babe was not in there when they searched the place. McKinney was running the place when it was searched. McKinney was running the place for Babe Kelly. I swore to an affidavit for a search warrant; never had any trouble with Bertha Strom. I just got sore at all of the girls.

RE DIRECT

BY MR. LANGROISE:

I came to the United States in July, 1927 from Canada. I am a Canadian. Remained here all of the time since July, 1927. Before coming to the United States I worked in smelters and mines and on farms, at various labor. It was after I got a disease I came down to Johnson and Webb and after I had talked with Needham. Nobody paid me any money for making purchases. When I was placed in jail by Weniger McKinney was there. McKinney who was caught the night before on the search warrant and quite a bunch. They threw blankets over my head and beat me up. They got me in the cell and beat me up. Neither Sheriff Weniger nor any deputy came in there to stop them. There never was any mention—they never asked me why I was beat up, why I had the black eye, or anything at all.